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Bradley N. Ruben
Bradley N. Ruben, PC
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463 First St.
Hoboken NJ 07030

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Lombardi et al.	:	
Application No. 10/392,033	:	ON PETITION
Filed: March 19, 2003	:	
Attorney Docket No. 120LD-003	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 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. 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.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 17, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 18, 2005. A Notice of Abandonment was mailed September 12, 2005.

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]

---

[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).

The instant petition lacks item (3). After a review of the application file, it appears that only the first page of the petition was received. The statement required by (3) is located on the second page. Accordingly, petitioner should resubmit the second page of the petition to grant the revival.

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 Chase

Liana Chase
Petitions Examiner
Office of Petitions

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HOBOKEN, NJ 07030

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Lombardi et al.	:	
Application No. 10/392,033	:	ON PETITION
Filed: March 19, 2003	:	
Attorney Docket No. 12OLD-033	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Lombardi et al.	:	
Application No. 10/392,033	:	DECISION ON PETITION
Filed: March 19, 2003	:	
Attorney Docket No. 120LD-003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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JJGJr: 02-05

Paper No: __

JULIUS CSORBA
RUZINA 258
OKRES LUCEBEC
98552
SLOVAKIA

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Csorba :
Application No. 10/392,039 : DECISION ON PETITION
Filed: 19 March, 2003 :
Attorney Docket No. (None) :

This is a decision on the petition filed via FAX on 18 December, 2004, suspension of the rules under 37 C.F.R. §1.183, and waiver of fees.

The petition is **DISMISSED**.

A review of the application file reveals that:

- the Examiner mailed a Restriction requirement on 18 June, 2004, and set a one- (1-) month period for reply (as is standard in restriction practice) with the reply due on or before Monday, 19 July, 2004;

- Petitioner failed to reply within the one- (1-) month shortened statutory period, and instead sought to file his reply in October 2004 with a request and fee for an extension of time;

- however, when Petitioner sought to pay the fees for the extension of time (a four- (4-) month extension ($490.00 on the day sought) with a credit card, the charge was declined by Petitioner's bank/credit card institution and the reply without the extension of time was untimely;

- as a result, Petitioner sought to resolve the matter with his bank/credit card institution, and then had to request and pay the fee for a five- (5-) month extension of time ($1,080.00 on the day sought);

- now Petitioner seeks to have refunded the difference in the extension of time fees ($590.00) in addition to two (2) $50.00 service charges and the $130.00 fee for the instant petition–for a total of $820.00.

ANALYSIS

The regulations at 37 C.F.R. §1.183 provide:

> §1.183 Suspension of rules.
>
> 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). (Emphasis supplied.)

From the outset, as is clear from the express statement of the rule, above, the fee for the instant petition is a mandatory jurisdictional requirement of the petition and the fee for the instant petition cannot be refunded.

As for the service charges for the refused payments and the difference in the fees for the extensions of time, the errors were not those of the Office:

- Petitioner could have replied to the restriction requirement before the expiration of the shortened statutory period, but he chose not to do so and he had to purchase extensions of time to make timely his reply;

- moreover, any errors which led to Petitioner's bank/credit card institution refusing the charges and delaying further the Petitioner's reply–and so requiring additional time and fees therefor–were errors on the part of Petitioner and/or his bank/credit card institution; and

- notably, the bank/credit card institution sets forth in its letter: "We hereby confirm that by mistake we have not informed the owner of the credit card . . . ." (Emphasis supplied.)

The Office did not decline to accept payment from Petitioner. Rather, Petitioner's bank/credit card institution declined the charges to Petitioner's credit card.

Accordingly, the instant petition is **dismissed**, and the petition fee will not be refunded because the petition was not occasioned by an error of the Office.

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

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

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MORRISTOWN NJ 07962

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Daniel E.Bause et al :
Application No. 10/302,044 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. H0004521 :

This is a decision on the petition, filed March 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 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) 272-3208.

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

Karen Creasy

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

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

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Paper No. _____

Date : March 11, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Daniel E. Bause et al
Application No. :10/392,044
Filed :March 19, 2003

The above-identified application has been assigned Patent No. 6,869,465 and an issue date of March 22, 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 March 22, 2005:

"All reference to Patent No. 6,869,465 to Daniel E. Bause et al of New Jersey for EVAPORATIVE EMISSIONS FILTER appearing in the Official Gazette of March 22, 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, 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

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Daniel E.Bause et al :
Application No. 10/392,044 : CORRECTED DECISION
Filed: March 19, 2003 :
Attorney Docket No. H0004521 :

This is a **corrected** decision on the petition, filed March 11, 2005, under 37 CFR 1.313©)(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©)(2).

On the decision mailed March 11, 2005, an incorrect Application No. 10/302,044 was referenced instead of 10/392,044. However, the application data with the correct application no. was correct in PALM to indicate that the petition to withdraw from issue for Application No. 10/392,044 was granted.

The Office sincerely apologizes for any inconvenience caused petitioner by this matter.

Petitioner is advised that the issue fee paid on January 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) 272-3208.

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/392,044	03/19/2003	Daniel E. Bause	H0004521	9198

7590 08/15/2005

Honeywell International Inc.
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962

EXAMINER	
SPITZER, ROBERT H	
ART UNIT	**PAPER NUMBER**
1724	

DATE MAILED: 08/15/2005

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 23313-1450
WWW.USPTO.GOV

Mailed: dss

In re Application of Bause et al..
Serial No.: 10/392,044
Filed: March 19, 2003

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

Title: EVAPORATIVE EMISSIONS FILTER

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed JULY 14, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the name of Gary B. Zulauf to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

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

12-29-05

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

Honeywell International Inc.
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Daniel E. Bause et al :
Application No. 10/392,044 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. H0004521 :

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 July 15, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on January 20, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Christopher C. Boehm appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Boehm 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. Boehm, the petitioner herein. Until otherwise instructed, all future correspondence regarding

---

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

this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being forwarded to Technology Center Art Unit 1724 for processing of the request for continued examination under 37 CFR 1.114 filed January 20, 2006.

Karen Creasy

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

cc:
CANTOR COLBURN
201 WEST BIG BEAVER ROAD, SUITE 370
TROY, MICHIGAN 48084-4116

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of	:	
Hasloecher et al.	:	
Application No. 10/392,056	:	ON PETITION
Filed: March 19, 2003	:	
Attorney Docket No. FAO0092US2	:	

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 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.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Kenneth J. Hasloecher	: DECISION ON REQUEST FOR
Patent Number	: 7604207	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/392,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **686** 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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FROM DIRECTORS OFFICE

JUN 11 2007

TECHNOLOGY CENTER 3600

Kurt Van Voorhies
Raggio & Dinnin, P.C.
2701 Cambridge Court, Suite 410
Auburn Hills, MI 48326

In re Application of : DECISION ON THE PETITION
W. Todd Watson et al. : UNDER 37 CFR 1.144
Application No. 10/392,072 :
Filed: March 19, 2003 :
For: VEHICLE ROLLOVER DETECTION SYSTEM

This is a decision on applicant's petition on the propriety of the restriction/election under 37 CFR 1.144, filed in the United States Patent and Trademark Office, on November 27, 2006. The petition is being handled as a petition under 37 CFR 1.144.

The petition is **GRANTED**.

BACKGROUND

A thorough review of the file reveals that a three-way restriction/election under MPEP § 806.05 (c) and 806.05(e) – Combination/Subcombination and Process and Apparatus for its Practice - was mailed to applicant on August 11, 2005.

I. Claims 1-6, drawn to an apparatus, classified in class 701, subclass 45.
II. Claims 7, 11-13, and 15-23, drawn to a combination (process), classified in class 180, subclass 271.
III. Claims 8-10, and 14, drawn to a subcombination (process), classified in 280, subclass 734.

Applicant on October 11, 2005 elected with traverse to prosecute claims 7, 15-19, 22, and 23 drawn to the combination.

The non-Final Office action of December 22, 2005 addressed applicant's traversal of the restriction/election and withdrew claims 1-6, 8-14, 20 and 21 as being non-elected with traverse. In replying to the traversal of the restriction/election requirement the examiner stated:

> "Applicant's election with traverse of Group II, species IIB, subspecies IIBc (readable claims 7, 15-19, 22, and 23) in the reply filed on 10/11/2005 is acknowledged. The traversal is on the ground(s) that the restriction requirement is not proper because the suggested classification in the restriction requirement not sufficient. The applicant further request of clarifying the process of Groups II/III and also the combination/subcombination relationship as set in the restriction requirement.

The applicant's argument is not persuasive because Group I, Group II, and Group III, each has a separate classification. The restriction requirement shows that the groups of inventions are distinct as the following: Group I and II/III are related as process/apparatus; Group II and III are related as combination/subcombination.

The suggested classes/subclasses are sufficient since class 701/subclass 45 includes controlling vehicle safety devices (safety restraint devices), class 180/subclass 271 includes means for promoting safety of vehicle, class 280/subclass 734 includes the subject matter including vehicle safety devices are deployed in responsive to vehicle condition which assumes impending collision or crash.

As shown in the restriction requirement, there are three groups of inventions and that they are distinct because of the following: Group I and II/III are related as process/apparatus; Group II and III are related as combination/subcombination.

Group I and II/III are related as process/apparatus because the process as claimed the process as claimed can be practiced by a materially different apparatus or by hand, for example the process as claimed can be practiced by a vehicle safety system, in which the safety devices such as airbag, seat-belt, etc on said vehicle are properly deployed based on the classification of vehicle occupants.

Group II and III are distinct, each from the other because of the following reasons: Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claim 7 (ABbr) is an evidence claim which indicates that combination claims 7, 11-13, and 15-23 do not rely upon the specific details of the subcombination claims 8-10, and 14 (Bsp) for its patentability. Accordingly, where the combination evidence claim (ABbr) does not set forth the details of the subcombination (Bs~) and the subcombination (Bsp) has separate utility, such as the detection criteria is responsive to the measure of occupant position, and a deployment threshold associated with the detection criteria is shifted by an offset responsive to the measure of occupant position. For that reason, the inventions are distinct and restriction is PROPER. See MPEP § 806.05(c).

Clearly, a burden exists when more than one invention is claimed and requires numerous class/subclass searches.

Additionally, the restriction requirement of species and subspecies is proper as being shown in the restriction requirement."

PETITION

Applicant's petition states the following: (1) that the classes suggested by the Examiner do not appear to be sufficiently distinct and non-overlapping so as to justify restriction. Applicant respectfully submits that the inventions of Groups I-III are not necessarily separately classified as asserted by the Examiner, but instead, could be classified together in either of the following two classifications suggested by the Examiner: 701/45 or 180/271, (2) that restriction between Inventions II (claims 7, 11-13 and 15-23) and III (claims 8-10 and 14) related as combination/subcombination is improper, (3) that the various species and subspecies of the instant application are related in that each provides for detecting a rollover condition of a vehicle, are useable together in accordance with MPEP § 806.05(d), and (4) that the restriction

was untimely and "not a serious burden on the examiner" as all claims had previously been examined and under Final rejection.

DISCUSSION

Applicant's arguments are in-part persuasive.

MPEP § 806.05(d) Subcombinations, Usable Together

Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.

To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary. Each subcombination is distinct from the combination as claimed if:

(A) the combination does not require the particulars of the subcombination as claimed for patentability (e.g., to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in another materially different combination.

MPEP § 806.05(e) Process and Apparatus for Its Practice

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

MPEP § 808.02 Establishing Burden

Where, as disclosed in the application, the several inventions claimed are related, and such related inventions are not patentably distinct as claimed, restriction under 35 U.S.C. 121 is never proper (MPEP § 806.05). If applicant voluntarily files claims to such related inventions in different applications, double patenting may be held.

Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.
(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.
(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or

employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

MPEP § 811 Time for Making Requirement

37 CFR 1.142(a), second sentence, **>indicates that a restriction requirement "will normally< be made before any action upon the merits; however, it may be made at any time before final action **." This means the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops.

Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

MPEP § 815 Combination-Subcombination

ABsp/ABb /Bsp Restriction Proper

The presence of a claim to combination ABsp does not alter the propriety of a restriction requirement properly made between combination ABbr and subcombination Bsp. Claim ABbr is an evidence claim which indicates that the combination does not rely upon the specific details of the subcombination for its patentability. If a restriction requirement can be properly made between combination ABbr and subcombination Bsp, any claim to combination ABsp would be grouped with combination ABbr.

If the combination claims are amended after a restriction requirement such that each combination, as claimed, requires all the limitations of the subcombination as claimed, i.e., if the evidence claim ABbr is deleted or amended to require Bsp, the restriction requirement between the combination and subcombination should not be maintained.

If a claim to Bsp is determined to be allowable, any claims requiring Bsp, including any combination claims of the format ABsp, must be considered for rejoinder. See MPEP § 821.04.

Regarding statement (1):

Invention I and invention (II/III) are deemed to be properly separable. While applicant admits that inventions could be classifiable together in class 701/45 or 180/271 it is noted that invention I could be searched and separately classified in class 702/150+. MPEP § 808.02. Sets forth that one of three criteria may be met: (1) separate classification, (2) separate status in the art when classifiable together and, (3) different field of search. Clearly separate classification exists between the process and apparatus MPEP § 806.05(e).

With regard to statement (2):

Review of the restriction requirement between invention II (combination) and invention III (subcombination) is found to be persuasive. The restriction requirement of combination/subcombination is improper. No evidence claim exists under MPEP § 815.

Regarding statement (3):

Review of applicant's arguments regarding the species election requirement is not persuasive. The species presented by the examiner are considered to be Mutually Exclusive. Applicant within his traversal has not set forth evidence that the species are not patentably distinct nor has applicant identified the species to be obvious variants. MPEP § 806.05(d) subcombination useable together as argued by applicant is not properly shown as no single combination is set forth. For instance, the detection criteria can be one of the following, but not all three: (1) shifted by an offset responsive to the measurement of the occupant position, (2) scaled by a factor responsive to measurement of the occupant position, or (3) responsive to a rate of change of the measurement of the occupant position.

Regarding statement (4):

Review of the file reveals that the restriction requirement was not made prior to the Final Office action. The examiner did not properly withdraw the finality of the rejection before issuing the restriction/election requirement. MPEP § 811 sets forth that restriction requirements will *normally* be made before any action upon the merits; however, it may be made at any time before final action." In the instant application the examiner should have made the restriction/election requirement early in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper restriction/election requirement developed. By not making the requirement until after examining the claimed inventions through Final rejection, the examiner has not shown nor set forth the burden that necessitated the untimely restriction/election requirement. Accordingly, the restriction election requirement although appearing to be at least partly proper is considered to be untimely.

SUMMARY: The petition is **GRANTED**.

The Finality of the Office action dated May 26, 2006 is deemed improper.

The application is being forwarded to the examiner. A new Office action addressing all pending claims 1-23 in response to the petition decision follows.

Any questions or comments with respect to this decision should be forwarded to Jack W. Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/snm: 6/2/07

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AUG 2 6 2009

OFFICE OF PETITIONS

In re Application of :
Watson et al. :
Application No. 10/392,072 : ON APPLICATION FOR
Filed: March 19, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 5701-01290 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed April 21, 2009. Applicants submit that the determination of patent term adjustment under 35 USC § 154(b) of 103 days is in error, and the patent term adjustment should be at least 393 days, subject to any reductions. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants attempt to disclose that a period of reduction of 93 days pursuant to 37 CFR 1.704(b) should have been entered for the filing of a reply on November 27, 2006.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[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.

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment, the request is **DISMISSED**.

On January 27, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 103 days. On instant application for patent term adjustment, applicants include a period of reduction of 93 days for applicant delay in taking until November 27, 2006 to file a reply to the Office action mailed May 26, 2006.

Entry of this additional period of reduction has been considered, but not found warranted. Having reviewed the prosecution history, it is concluded that Applicants' delay was properly assessed as 2 days based on filing a reply to the Office action mailed May 26, 2006 on August 28, 2006. It is noted that the finality of the Office action mailed May 26, 2006 was withdrawn (See Decision mailed June 11, 2007). As such, the reply filed August 28, 2006 was sufficient for purposes of calculating applicant delay pursuant to 37 CFR 1.704(b). No period of reduction is warranted for filing of a notice of appeal on November 27, 2006.

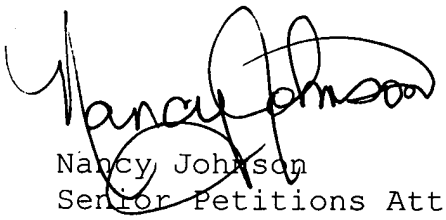
The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
W. Todd Watson, et al.	:	
Application No. 10/392,072	:	DECISION GRANTING PETITION
Filed: March 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5701-01290	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 21, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3663 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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DEC - 8 2003

OFFICE OF THE DIRECTOR
TC 3600

Edward P. Dutkiewicz
P.O. Box 511
Largo, FL 33779-0511

Paper No. 3

In re application of
Howard Lee
Application No. 10/392,073
Filed: March 19, 2003
For: LADDER POSITIONING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 19, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is sincerely regretted.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a birth certificate from Howard Lee showing that he is at least 65 years of age.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

SNM/cps 12/3/03

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CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of :
James R. Schwartz et al. :
Application No. 10/392,104 : ON PETITION
Filed: March 18, 2003 :
Attorney Docket No: 8901M&

This is a decision on the petition filed September 28, 2006 under 37 CFR 1.182, for withdrawal of terminal disclaimers filed December 1, 2005 and August 24, 2006.

The petition is **DISMISSED**.

The examiner responsible for the above-identified application has reviewed the Terminal Disclaimer filed September 28, 2006 and has indicated that the terminal disclaimers filed December 1, 2005 and August 24, 2006 both apply to application no. 10/742,557, and thus cannot be withdrawn. Accordingly, on petition the terminal disclaimer filed September 28, 2006 cannot be substituted for the terminal disclaimers filed December 1, 2005 and August 24, 2006.

The petition fee in the amount of $400.00 has been charged to deposit account no. 16-2480 pursuant to the authorization contained in the petition.

This matter is being referred to Technology Center 1617 for further examination in due course..

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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In re Application of
James R. Schwartz et al.
Application No. 10/392,104
Filed: March 18, 2003
Attorney Docket No: 8901M&

ON PETITION

This is a decision on the request for reconsideration filed May 21, 2007, under 37 CFR 1.182, for withdrawal of terminal disclaimers filed December 1, 2005 and August 24, 2006.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimers filed December 1, 2005 and August 24, 2006 do not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400.00 has been charged to deposit account no. 16-2480 pursuant to the authorization contained in the petition.

This matter is being referred to Technology Center 1617 to correct the records related to the terminal disclaimer filed December 1, 2005 and August 24, 2006 in favor of the Terminal Disclaimer filed September 28, 2006 and consistent with this decision.

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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Steven D. Petersen
1527 W. Boise Place
Chandler AZ 85224

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OFFICE OF PETITIONS

In re Application of
Petersen et al.
Application No. 10/392,111
Filed: June 27, 2003
Title: Combination Electronic and Paper Ballot Voting System

: DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 27, 2003. It appears from the petition that applicants are requesting that the above-identified application be accorded the later filing date of June 27, 2003, the date omitted Figures 8a was filed with the United States Patent and Trademark (Office).

On March 19, 2003, applicants deposited the above-identified application. However, on May 16, 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 19, 2003, and advising applicants that Figures 8a appeared to have been omitted from the application.

In response, on June 27, 2003, applicants filed the present petition, the petition fee, and a copy of Figure 8a described in the specification. Applicants requested that the above-identified application be accorded the later filing date of June 27, 2003, the date omitted Figures 8a was filed with the Office.

Accordingly, the petition is **granted**.

The application is being returned to the Office of Initial Patent Examination for further processing and **to correct the filing date to June 27, 2003**, using the Figures submitted on March 19, 2003, and June 27, 2003.

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
Office of the Deputy Commissioner

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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Jennifer L. Misek	: DECISION ON REQUEST FOR
Patent Number	: 7632258	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/392,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1375** 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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IRVINE CA 92614

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In re Application of :
Srinivasan, et al. :
Application No. 10/392,133 : DECISION ON PETITION
Filed: March 18, 2003 : TO WITHDRAW
Attorney Docket No. 005306.P100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SAM CAMPBELL
CAMPBELL, STEPHENSON ASOCOLESE, LLP
4807 SPICEWOOD SPRING ROAD
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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Paper No. 5

Kaplan and Gilman, LLP
9000 Route 9 North
Woodbridge, NJ 07095

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OFFICE OF PETITIONS

In re Application of :
Michael Hannan, et al. :
Application No. 10/392,138 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. 412/102.3 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed August 18, 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 alleges that the non-signing inventor, Michael Hannan, refuses to sign the oath or declaration. Petitioner has provided a copy of an e-mail message from Wayne White, Mr. Hannan's attorney, which states, "He does not wish to sign the Power of Attorney." It appears that Mr. Hannan is refusing to sign the declaration. Nevertheless, it is uncertain since Mr. White's message states, "He does not wish to sign the **Power of Attorney**." Although petitioner states that the Declaration was mailed to Mr. Hannan, there is no indication that he was presented with a copy of the application papers (specification, including claims, drawings and oath or declaration).

MPEP 409.03(d) in pertinent part states:

> "Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims,

drawings and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or if the non-signing inventor is represented by counsel, to the address of record of the non-signing inventor's attorney."

In view of the above, petitioner must supply a copy of the application papers to Mr. Hannan as required. Upon the filing of a Request for Reconsideration, petitioner must demonstrate that a *bona fide* attempt was made to present the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. If there is an express written refusal to sign the declaration, a copy of the document evidencing that refusal should be submitted to the USPTO. If the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration and any documentary evidence to support facts alleged in the affidavit or declaration should be submitted with the reconsideration request.

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

By MAIL:	U. S. Patent and Trademark Office P. O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(703) 308-6916 Attn: Office of Petitions
By HAND:	2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

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Paper No. 8

Kaplan and Gilman, LLP
900 Route 9 North
Woodbridge, NJ 07095

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Michael Hannan, et al. :
Application No. 10/392,138 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. 412/102.3 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed December 31, 2003.

The petition is granted.

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

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

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

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

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

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

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Michael Hannan
137134 North Nightstar Court
Marana, AZ 85653

COPY MAILED
JAN 16 2004
OFFICE OF PETITIONS

In re Application of
Michael Hannan; and Kenneth D'Angelo
Application No. 10/392,138
Filed: March 19, 2003
For: SKILL BASED LOTTERY SYSTEM

Dear Mr. Hannan:

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

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

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

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

cc: Kaplan and Gilman, LLP
900 Route 9 North
Woodbridge, NJ 07095

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KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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APR 26 2007

OFFICE OF PETITIONS

In re Application of
HANNAN, Michael et al.
Application No. 10/392,138
Filed: March 19, 2003
Attorney Docket No. **412/102.3**

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 26, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on November 02, 2006.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KENNETH D'ANGELO**
RAZOR SPORTS, INC.
39 BROADWAY ROAD
WARREN, NJ 07059

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United States Patent and Trademark Office
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FEB 14 2005

Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	DECISION ON PETITION
Hiroaki Fukao	:	TO WITHDRAW
Serial No. : 10/392,184	:	HOLDING OF
Filed : March 20, 2003	:	ABANDONMENT
For : Threading Apparatus for Sewing Machine	:	

This is a decision on petitioner's request filed August 24, 2004, to review a holding of abandonment for failure to pay the issue fee as required in the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed April 6, 2004. No Notice of Abandonment has been mailed in this case as yet. The basis for the request is that applicant did not receive the communication mailed April 6, 2004. There is no fee required for this petition.

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 August 24, 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 mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed April 6, 2004.

Summary: Holding of Abandonment Withdrawn.

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/09/05

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20 DEC 2006

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

In re Application of	:	
TREMBLE et al.	:	
Application No.: 10/392,229	:	DECISION
Attorney Docket No.: P1032US	:	
For: MEDICAL DEVICES AND COMPOSITIONS	:	
FOR DELIVERING ANTI-PROLIFERATIVES TO	:	
ANATOMICAL SITES AT RISK FOR RESTENOSIS	:	

This decision is in response to applicants' petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office (USPTO) on 02 September 2004.

The petition requests that the drawings filed with the original application papers be replaced with the drawings accompanying the petition.

The petition is **DISMISSED** as **MOOT** since a petition under 37 CFR 1.182 is not required to make changes to the drawings. See, e.g., MPEP § 608.02(a)-(z).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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Alexandria, VA 22313-1450
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BANIAK PINE & GANNON
SUITE 1200
150 N. WACKER DRIVE
CHICAGO IL 60606

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Duane L. Wires	:	
Application No. 10/392,279	:	DECISION DISMISSING PETITIONS
Filed: 19 March, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 8150/5	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 1 February, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c), and 119(e) for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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 or international application claiming the benefit of one or more prior-filed copending nonprovisional or international 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. PCT/US02/000--, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. PCT/US02/000--, 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.[1] The amendment filed on 1 February, 2007, fails to state the relationship of international Application No. PCT/US02/14434, filed 7 May, 2002, to the instant application.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters 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

[1] See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

Any questions concerning this matter may be directed to Senior Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago IL 60606

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SUITE 1200
150 N. WACKER DRIVE
CHICAGO IL 60606

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Duane L. Wires :
Application No. 10/392,279 : DECISION ON PETITIONS
Filed: 19 March, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 8150/5 :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 10 April, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c), and 119(e) for the benefit of the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application is a continuation of international Application No. PCT/US02/14434, filed on 7 May, 2002, which claims benefit of provisional Application No. 60/289,273, filed on 7 May, 2001.

The nonprovisional or international application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional or international application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c), and 119(e) is accepted as being unintentionally delayed.

As the present petition for benefit of international Application No. PCT/US02/14434 is granted, the foreign priority claim to this international application under 35 U.S.C. § 119(a)-(d) is unnecessary and has been deleted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(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. §§120, 365(c), and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

This application is being forwarded to Technology Center Art Unit 1732 for consideration by the examiner of the claim under 35 U.S.C. §§120, 365(c), and 119(e) of the prior-filed international and provisional applications.

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

CC: McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/392,279	03/19/2003	1732	1006	8150/5	43	10

CONFIRMATION NO. 6818

CORRECTED FILING RECEIPT

Baniak Pine & Gannon
Suite 1200
150 N. Wacker Drive
Chicago, IL 60606

OC000000023571584

Date Mailed: 04/27/2007

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)

Duane L. Wires, Ada, OH;

Power of Attorney:

Michael Baniak--30608
Jeffrey Pine--36893
Steven Courtright--40966

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/14434 05/07/2002
which claims benefit of 60/289,273 05/07/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/392,279

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for manufacturing plastic optical lenses molds and gaskets

Preliminary Class

264

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).

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 Virginia Road, P.O. Box 9133
Concord, MA 01742-9133

Telephone: (978) 341-0036 Facsimile: (978) 341-0136

IFW

FACSIMILE COVER SHEET

FAX RECEIVED
JAN 05 2006
OFFICE OF PETITIONS

To: OFFICE OF PETITIONS

Date: January 5, 2006

Client Code: 1932

Facsimile No.: 571-273-0025

From: Steven G. Davis, Esq.

Subject:

Paper:	**Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b)**
Docket No.:	1932.2049-001
Examiner:	Chukwuma Nwaonicha
Group:	1621
Applicants:	Thomas H. Jozefiak, et al.
Serial No.:	10/392,280
Filing Date:	March 19, 2003

Number of pages including this cover sheet: 5
Please confirm receipt of facsimile: Yes ___ No ___

Comments:

Enclosed, please find:

1) Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b) (2 pgs.)

2) Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences (2 pgs.) with Authorization to Charge Fees

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Privileged and Confidential - All information transmitted hereby is intended only for the use of the addressee(s) named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any distribution or copying of this communication is strictly prohibited. Anyone who received this communication in error is asked to notify us immediately by telephone and to destroy the original message or return it to us at the above address via first class mail.

@FFDesktop\..ODMA/MHODMA/HBSR05;iManage,596376,1
SGD/sdb
January 4, 2006

PATENT APPLICATION
Docket No.: 1932 2049-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Thomas H. Jozefiak, Cecilia M. Bastos and Chad C. Huval		
Serial No.:	10/392,280	Group:	1621
Filed:	March 19, 2003	Examiner:	Chukwuma Nwaonicha
Confirmation No.:	6827		
For:	PHOSPHATE TRANSPORT INHIBITORS		

FAX RECEIVED
JAN 05 2006
OFFICE OF PETITIONS

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or is being facsimile transmitted to the United States Patent and Trademark Office on:

1/5/06 Sandra Brigham
Date Signature

SANDRA BRIGHAM
Typed or printed name of person signing certificate

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Although a Notice of Abandonment has not been received, it is believed that the above-referenced application went abandoned due to failure to timely file a Notice of Appeal. Applicant respectfully requests that the above-identified application be revived pursuant to 37 C.F.R. §1.137(b).

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Applicant respectfully requests that prosecution of the application be allowed to proceed. A Notice of Appeal is being filed concurrently herewith.

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.

Please charge for the Petition fee under §1.17(m) in the amount of $1500.00. Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to Deposit Account No. 08-0380.

Respectfully submitted.

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By _____

Steven G. Davis, Esq.
Registration No.: 39652
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133
Date: January 5 2006

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No. None

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

In re Application of :
Thomas H. Jozefiak et al. :
Application No. 10/392,280 : DECISION ON PETITION
Filed: March 19, 2003 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
1932.2049-001 :
Title: PHOSPHATE TRANSPORT :
INHIBITORS :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on January 5, 2006.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed June 29, 2005, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR §1.136(a) was requested on December 1, 2005, along with the

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.

filing of an after-final amendment[2]. The amendment was not entered, as it failed to place the application in condition for allowance. An advisory action has been included with the present decision. No further extensions of time were requested, and accordingly, the above-identified application became abandoned on November 29, 2005.

With the present petition, Petitioner has submitted a notice of appeal along with the associated fee, the petition fee, and the proper statement of unintentional delay.

The petition is **GRANTED**.

The Technology Center will be notified of this decision.

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

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

Encl. Advisory Action

2 The amendment contains a certificate of mailing dated November 29, 2005.

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

HARNESS DICKEY & PIERCE PLC
PO BOX 828
BLOOMFIELD HILLS MI 48303

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Katsuyuki Morii :
Application No. 10/392,287 : DECISION GRANTING PETITION
Filed: March 18, 2003 :
Attorney Docket No. 9319S-000479 :

This is a decision on the paper titled "Petition", filed December 12, 2003, which is being treated as a Petition Under 37 CFR 1.182, to accept page 25 of the substitute specification.

Application papers in the above-identified application were filed on March 18, 2003. On May 20, 2003 the Office mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice set an extendable period of two months for applicant to submit: (1) the statutory basic filing fee; (2) an oath or declaration, (3) the late oath or declaration surcharge; (4) an English translation of the specification (together with a statement that the translation is accurate); (5) the surcharge for filing a non-English specification; and (6) replacement drawings.

On July 25, 2003, applicant filed the above items in reply to the Notice to File Missing Parts. However, on August 26, 2003, the Office mailed a "Notice to File Corrected Application Papers". This notice required that applicant mail a substitute specification, together with replacement claims, because of improper line spacing on the English language specification filed on July 25, 2003. On September 11, 2003, applicant filed a substitute specification and a Preliminary Amendment. However, on October 7, 2003, the Office mailed applicant a "Notice of

Omitted Items in a Nonprovisional Application". Applicant was notified that the application papers had been accorded a filing date; however, page 25 of the substitute specification appeared to have been omitted.

In response, applicant filed the instant petition. Petitioner maintains that the substitute specification filed in response to the "Notice to File Corrected Application Papers" included a page 25. As evidence of receipt in the Office of page 25 of the specification, petitioner submitted a true and correct copy of the returned postcard receipt.

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.[1] A review of petitioner's postcard receipt reveals that it itemized a "Transmittal Form (in duplicate); Copy of Notice to File Corrected Application Papers; Preliminary Amendment; Substitute Specification in Clean Form; Substitute Specification in Marked-Up Form; and this postcard".

Regarding the itemization that is required of a postcard receipt, the Manual of Patent Examining Procedure states:

> ...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.[2]

In view of the above, a post card receipt which simply itemizes a "substitute specification" does not serve as *prima facie* receipt in the Office of all of the pages of the specification when one page is later found to be missing by the Office.

---

[1] See MPEP 503.

[2] Id.

An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The affidavits relied on contain the declarants' recall of routine events and are not more persuasive than the record of what was filed as shown by the official file.

Nevertheless, even though page 25 was not included in the substitute specification filed on September 11, 2003, the "Notice of Omitted Items" should not have been mailed in this circumstance. Clearly, the subject matter of page 25 was contained in the foreign language specification filed on March 18, 2003, of which the English language translation was filed on July 25, 2003.

In view of the above, the "Notice of Omitted Items" mailed October 7, 2003 was mailed in error and is hereby **VACATED**.

The petition is **GRANTED**.

The application file will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 18, 2003, using the pages of substitute specification filed on September 11, 2003 and including page 25 of the substitute specification supplied with the petition on December 12, 2003.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,598,430	:	DECISION ON REQUEST
Weeks, et al.	:	FOR
Issue Date: October 6, 2009	:	RECONSIDERATION OF
Application No. 10/392,301	:	PATENT TERM ADJUSTMENT
Filed: March 20, 2003	:	and
Atty. Docket No. 058951-0164	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 13, 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, seven hundred and twenty-six (1,726) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, seven hundred twenty-five (1,725) days[1] is **GRANTED to the extent indicated herein.**

[1] The period of overlap between the "A" delay and the "B" delay is 319 days, not 318 days as patentees calculate. It is noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. A review of the record reveals that the periods of "A" delay that overlap the period of "B" delay began March 21, 2006, and ended October 11, 2006—a total of 205 days and from the period beginning December 9, 2007, and ending March 31, 2008—a total of 114 days. Thus the period of "A" delay that overlaps the period of "B" delay is 319 days, not 318 days.

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

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

The application is being forwarded to the Certificates of 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 one thousand, seven hundred twenty-five (1,725) days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,430 B2

DATED : Oct. 6, 2009

INVENTOR(S) : Weeks 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 (1057) days

Delete the phrase "by 1057 days" and insert – by 1,725 days--

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Paper No. 6

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

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AUG 0 5 2003

OFFICE OF PETITIONS

In re Application of
Chul-Hee Kang
Application No. 10/392,304
Filed: March 20, 2003
Title: FLOW CONTROL APPARATUS AND METHOD FOR WIRELESS COMMUNICATION SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR §1.47(b)

This is in response to the petition under 37 CFR § 1.47(b), filed Monday, July 14, 2003.

The petition under 37 CFR § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR § 1.136(a).

The above-identified application was filed on March 20, 2003, without an executed oath or declaration and naming Chul-Hee Kang as sole inventor. Accordingly, on May 13, 2003, applicant was mailed a "Notice to File Missing Parts of Application," requiring *inter alia* an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under § 1.136(a).

With the instant petition, petitioner submitted a declaration executed by Sun-Ju Lim on behalf of non-signing inventor Kang. Applicant maintains that status under 37 CFR § 1.47(b) is proper because sole inventor Kang has refused to execute the declaration. In support thereof, petitioner submits the declaration of Sun-Ju Lim.

§ 1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve

> the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

The declaration submitted has been reviewed and found acceptable. The petition includes adequate proof of the refusal of inventor Kang to join in the application after a *bona fide* attempt was made to present the application papers to the inventor. (The petition includes proof that the inventor refused to accept delivery of any application papers). The petition includes payment of the petition fee and a statement of the last known address of inventor Kang. Rule 47 applicant states that the filing of the petition is necessary to preserve the rights of and/or to prevent irreparable damage to the assignee.

However, the petition must be dismissed because it does not include adequate proof of proprietary interest. Rule 47(b) applicant must prove that, as of the date the application was deposited in the United States Patent and Trademark Office, (a) the invention had been assigned to the applicant, or (b) the inventor had agreed in writing to assign the invention to the applicant, or (c) the applicant otherwise had sufficient proprietary interest in the subject matter to justify filing of the application. To show proprietary interest, applicant has submitted an assignment purportedly with relevant portions translated into the English language. This assignment is not acceptable to show proprietary interest. First, of all, the assignment is not sufficiently translated to show an assignment of this application from inventor Kang to rule 47(b) applicant. Further, the translation is neither a complete translation of the assignment nor is it a verified translation. Finally, as no assignment is of record in this application[1], the purported assignment to rule 47(b) applicant could not be independently verified by the undersigned. Thus, it must be concluded that petitioner has not submitted adequate evidence of proprietary interest.

On renewed petition, rule 47(b) applicant should submit an assignment showing that as of the date of deposit of the application it was assigned to rule 47(b) applicant. This assignment, if not in English, should be accompanied by a verified translation of the complete document. Alternatively, if the assignment as executed by inventor Kang, included English portions, this deficiency may be corrected by presenting to the Office a better copy of the assignment along with a statement that this is a true copy of the assignment as executed by the inventor. The assignment presented on petition does not identify in English by title, or otherwise, the invention being assigned.

---

[1] Applicant is not required to record the assignment in the Office to have the petition granted under § 1.47. However, had the assignment been recorded, the undersigned may have used that information to grant the petition.

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

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

By fax: (703) 308-6916
ATTN: OFFICE OF PETITIONS
ATTN: NANCY JOHNSON

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 11

NOV 14 2003

OFFICE OF PETITIONS

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of
Chul-Hee Kang
Application No. 10/392,304
Filed: March 20, 2003
Title: FLOW CONTROL APPARATUS AND METHOD FOR WIRELESS COMMUNICATION SYSTEM

: DECISION NOTING JOINDER
: OF INVENTOR
: and PETITION UNDER
: 37 CFR §1.47(b)
: DISMISSED AS MOOT

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. § 1.47(b)," filed November 5, 2003.

The petition under § 1.47(b) is **DISMISSED AS MOOT**.

The above-identified application was filed on March 20, 2003, without an executed oath or declaration and naming Chul-Hee Kang as sole inventor. In response to a "Notice to File Missing Parts of Application" mailed May 13, 2003, the initial petition under § 1.47(b) was filed, asserting that sole inventor Kang refused to execute the declaration. By decision mailed August 5, 2003, the petition was dismissed for failure to show adequate proof of proprietary interest on the part of rule 47(b) applicant.

On instant renewed petition, petitioner submitted a declaration executed by sole inventor Kang. This is a proper type of reply to the decision refusing status under § 1.47(b). The declaration filed November 5, 2003, has been reviewed and found in compliance with § 1.63.

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

The application file is being returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Hogan & Hartson L.L.P.
Anthony J. Orler
500 South Grand Ave., Ste 1900
Los Angeles, Ca. 90071

PROCESSED BY
PG PUB DIVISION
NOV 3 2004

Applicant: Sadaki Satoh et al.
Appl. No.: 10/392,322
Filing Date: March 19, 2003
Title: METHOD FOR MANUFACTURING COIL-EMBEDDED DUST CORE AND COIL – EMBEDDED DUST CORE
Attorney Docket No.: 81868.0020
Pub. No.: US 2003/0214379 A1
Pub. Date: November 20, 2003

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on January 2, 2004 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Shelby Pittman at (703) 305-8169 (voice) or (703) 305-8568 (facsimile).

Shelby Pittman, for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MIOIN PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Yujiro NOMURA :
Application No. 10/392,331 : DECISION GRANTING PETITION
Filed: March 20, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q74720 :

This is a decision on the petition, filed February 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 January 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 2852 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
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

JUL 14 2009

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

In re Application of:	:
Basu et al.	:
Serial No.: 10//392,333	: PETITION DECISION
Filed: March 19, 2003	:
Attorney Docket No.: **2685.2034 US1**	:

This is in response to the petition under 37 CFR § 1.181, filed March 12, 2009, requesting that the finality of the Office action of January 16, 2009 be withdrawn. The delay in deciding this petition is regretted but it has only recently come to the attention of the deciding Official.

BACKGROUND

The examiner mailed a non-final Office action on April 22, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 63-99 [sic 63-69, 76-84 and 92-99] were pending. The examiner rejected claims 63-94, 96-69, 76-84 and 92-99 on the ground of nonstatutory obviousness-type double patenting. Claims 63-94, 96-69, 76-84 and 92-94 and 96-98 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Batycky optionally in view of Grimminger or vice versa. Claims 63-94, 96-69, 76-84 and 92-94 and 96-98 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Batycky optionally in view of Grimminger or vice versa as set forth above, further in view of Platz of record. Claims 63-94, 96-69, 76-84 and 92-94 and 96-98 were rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 00/33811 of record in view of Platz, Edwards of record and Grimminger. Claims 95 and 99 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Batycky optionally in view of Grimminger or vice versa or over WO 00/33811 of record in view of Platz, Edwards of record and Grimminger both as set forth above, further in view of DE 19921693.

In reply to the non-final Office action of April 22, 2008, applicants filed a response on October 22, 2008. The response submitted by applicants included remarks and arguments traversing the rejections made in the non-final Office action. It is pointed out the no claim amendments were made.

On January 16, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 63-69, 76-84 and 92-99 were pending and were examined on their merits. The examiner rejected claims 63-69, 76-84 and 92-99 on the ground of nonstatutory obviousness-type double patenting. The examiner also rejected claims 92-93 and 96-97 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement and rejected claims 68-69, 83-84, 95 and 99 under 35 U.S.C. § 112, second paragraph, as indefinite. The examiner made the action Final and stated that Applicants' amendment necessitated the new ground of rejection citing MPEP §706.07(a).

In response thereto, applicants filed this petition on March 12, 2009, requesting that the finality of the Office action of January 16, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on March 12, 2009, applicants request reconsideration of the final Office action mailed by the examiner on January 16, 2009 asserting that the final rejection was premature and improper. Specifically, applicants contend that the examiner's rejections of the claims each under 35 U.S.C. § 112, first paragraph and under 35 U.S.C. § 112, second paragraph, were new grounds of rejections which were neither necessitated by applicants' amendment submitted on October 22, 2008 nor necessitated by an IDS submitted by applicants. Subsequently, applicants request withdrawal of said final Office action in favor of applicants.

The following excerpt from the MPEP § 706.07 was also cited in support of applicants' assertions:

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

The examiner's rejections of the claims under 35 U.S.C. § 112, first and second paragraph, in the final Office action were new rejections considering that the examiner did not originally institute said rejection(s) in the non-final Office action. While new rejections are permitted in final Office actions, such new rejections are only proper under certain circumstances according to the provisions set forth in the MPEP; those provisions being, either when applicants' amendment to the claims necessitates such a rejection or when an IDS submitted by applicants necessitates such a rejection, see MPEP citation (*Id.*) Since an IDS submitted by applicants in the interim between the mailing of the non-final Office action and the final Office action did not necessitate a rejection and there were no claim amendments, applicants' arguments are well-taken and found persuasive. In view of the evidence, the final Office action issued January 16, 2009 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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.

Mike Wityshyn
Acting Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 17, 2009

TO SPE OF : ART UNIT 2819
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/392354 / 7138075

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1626 **Art Unit**

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JAN 14 2009

OFFICE OF PETITIONS

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD, SUITE 350
BIRMINGHAM, MI 48009

In re Application of :
Jeffrey **POWELL**, et al. :
Application No. 10/392,418 : DECISION ON PETITION
Filed: March 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **2002P06559US01** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 6, 2007. Accordingly, the date of abandonment of this application is September 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Petitioner is advised that the Utility Issue Fee has increased effective October 2, 2008. Any fee amount paid on or after October 2, 2008, must be paid as shown in the revised fee schedule. The increased issue fee of $1510 has been charged to petitioner's Deposit Account No. 50-1482 as authorized in the Authorization to Charge Deposit Account submitted on November 8, 2007.

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

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PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 60427-521

First named inventor: Powell

Application No.: 10/392,418

Art Unit: 3679

Filed: 3/19/2003

Examiner: Macarthur, Victor L.

Title: Positive Locking Connector for Vehicle Component

01/14/2009 CKHLOK [illegible] 10392418

01 FC:1501 1440.00 DA
02 FC:1504 300.00 DA
03 FC:1453 1540.00 DA

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Alexandria, VA 22313-1450
FAX (571) 273-8300

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

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

☑ Other than small entity – fee $ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ 1,700.00.

☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

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

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

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

Signature	September 18, 2007 Date
Kerrie A. Laba Typed or printed name	42,777 Registration Number, if applicable
Carlson, Gaskey & Olds Address	248 988 8360 Telephone Number
400 W. Maple Road, Suite 350, Birmingham, MI 48009 Address	

Enclosures: ☐ Fee Payment
☐ Reply
☑ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: Issue Fee Transmittal; Authorization to Charge Deposit Account

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

September 18, 2007 Date	Signature Laura Combs Typed or printed name of person signing certificate

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Barnett et al.	:	
Application No. 10/392,437	:	LETTER REGARDING PTA
Filed: March 17, 2003	:	
Attorney Docket No.	:	
10559-818001/P15699	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed on July 29, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

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

On April 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand one hundred ninety-three (1193) days.

Applicants filed the instant "LETTER REGARDING PATENT TERM ADJUSTMENT" on July 29, 2008. Applicants state no basis for their disclosure that the patent term adjustment appears to be longer than appropriate.

A review of the record reveals that the determination of patent term adjustment was correct.[1] The Office determined a patent term adjustment of one thousand one hundred ninety-three (1193) days based on an adjustment for PTO delay of three hundred one

[1] It is noted that applicants were charged two (2) days of patent term adjustment for the filing of a notice of appeal on October 30, 2005, three (3) months and two (2) days after the mailing of a final office action on July 28, 2005. However, upon review of the file the notice of appeal was actually filed on October 28, 2005. Accordingly, had applicants filed an application under 37 CFR 1.705(b), accompanied by the fee, applicants could have requested an increase in the patent term adjustment.

(301) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.702(a)(1) and §1.703(a)(1), and eight hundred ninety-four (894) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 CFR §§ 1.702(e) and 1.703(e), reduced by two (2) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office. As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 26 2007

STANLEY A. KIM, PH.D., ESQ.
AKERMAN SENTERFITT
SUITE 400
222 LAKEVIEW AVENUE
WEST PALM BEACH FL 33402-3188

In re Application of	:
Edward w. Scott et al	:
Serial No.: 10/392,439	: PETITION DECISION
Filed: March 18, 2003	:
Attorney Docket No.: 5853-234	:

This is a response to the petition under 37 CFR 1.59(b), filed January 16, 2007, to expunge information from the above identified application.

Petitioner requests that a draft amendment submitted for the purpose of an interview, filed December 1, 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(h) has been paid.

The information has been closed which is the equivalent of expungement inasmuch as scanned documents cannot physically be returned.

It is noted that the petition fee for this petition is $200.00. Applicants have submitted a fee of $130.00. The balance will be charged to applicants' Deposit Account No. 50-0951, as directed.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/392,452	03/18/2003	3723	669	LHR.0002US	9	34	7

CONFIRMATION NO. 6721

Mark J. Rozman
TROP, PRUNER & HU, P.C.
Suite 100
8554 Katy Freeway
Houston, TX 77024-1841

CORRECTED FILING RECEIPT

OC000000011148485

Date Mailed: 10/30/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Christopher Scott Lovchik, Pearland, TX;
James David Jochim, Nassau Bay, TX;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/367,642 03/25/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/12/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Quick change adaptor for rotary machines

Preliminary Class

451

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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OFFICE OF PETITIONS

GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

In re Application of :
S. Gregory Smith et al :
Application No. 10/392,454 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. Smith-2 USA :

This is a decision on the petition filed, September 18, 2006 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 25, 2005, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 26, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on September 18, 2006.

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

This matters is being referred to Technology Center AU 3711 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TYCO HEALTHCARE GROUP LP
60 MIDDLETOWN AVENUE
NORTH HAVEN CT 06473

MAILED

FEB 12 2009

OFFICE OF PETITIONS

In re Application of :
LUNSFORD, John P. et al. :
Application No. 10/392,465 : DECISION ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. **2418 CON II** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 04, 2007, which set a shortened statutory period for reply of three (3) months. A (3) three month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 05, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of December 04, 2007 is accepted as having been unintentionally delayed.

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.

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

This application is being referred to Technology Center AU 3731 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DANA A. BRUSSEL**
CARTER DELUCA FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD

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PTO/SB/64 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 2418 CON2 (203-3471 CON)

First named inventor: John P. Lunsford et al.

Application No.: 10/392,465 Art Unit: 3731

Filed: March 19, 2003 Examiner: Kathleen C. Sonnett

Title: METHOD AND INFLATABLE CHAMBER APPARATUS FOR SEPARATING LAYERS OF TISSUE

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

☑ Other than small entity – fee $ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment After Final (identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☑ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ 130.00 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

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Dana A Brussel — Signature

July 10, 2008 — Date

Dana A. Brussel — Typed or printed name

45,717 — Registration Number, if applicable

Carter, DeLuca, Farrell & Schmidt, LLP — Address

(631) 501-5700 — Telephone Number

445 Broad Hollow Road, Suite 225, Melville, NY 11747 — Address

Enclosures:
☑ Fee Payment - The Commissioner is authorized to charge the fee to Deposit Account No. 21-0550.
☑ Reply
☑ Terminal Disclaimer Form
☑ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

Certificate of Transmission Under 37 C.F.R. §1.8(a)

☐ I hereby certify that this correspondence is being transmitted on the date below with the United States Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450, via electronic submission.

☐

Dated: July 10, 2008

Dana A Brussel

Dana A. Brussel

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Paper No. 5

Debra Crenshaw
1439 East Avenue, Apt. #1F
Bronx NY 10462-7562

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AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of
Crenshaw et al.
Application No. 10/392,466
Filed: March 19, 2003
For: Adjustable Aperture
Containing Hat Apparatus

DECISION GRANTING PETITION

This is a decision on the petition filed May 29, 2003, requesting that the above-identified application be accorded a filing date of March 19, 2003, with Figures 1-8 and page 12 of the specification as part of the original disclosure.

On March 19, 2003, applicants deposited the above-identified application. On May 15, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. Additionally, the Notice indicated that page 12 of the specification appeared to have been omitted.

In response, on May 29, 2003, applicants filed the present petition, the petition fee and a copy of applicants' stamped postcard receipt, acknowledging receipt of 4 pages of drawings (8 Figures) and 21 pages of specification on March 19, 2003. Additionally, applicants submitted copies of Figures 1-8 and page 12 of the specification with the present petition.

Upon review of the record, Figures 1-8 and page 12 of the specification, deposited on March 19, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 19, 2003, included Figures 1-8 and page 12 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 1-8 and page 12 of the specification, was complete on filing and will be granted a filing date of March 19, 2003.

Accordingly, the petition is granted. The Notice of Incomplete was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and 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 19, 2003, using Figures 1-8 and page 12 of the 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/392,476	03/18/2003	1625	1030	6843MRRCC		18	3

CONFIRMATION NO. 7369

CORRECTED FILING RECEIPT

OC000000011098334

27752
THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

Date Mailed: 10/27/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Benoit Ledoussal, Mason, OH;
Ji-In Kim Almstead, Holmdel, NJ;
Jeffrey Lyle Gray, Loveland, OH;

Assignment For Published Patent Application

The Procter & Gamble Company;

Domestic Priority data as claimed by applicant

This application is a CON of 10/085,786 02/28/2002 ABN
and is a CON of 09/929,943 08/15/2001 PAT 6,387,928
which is a CIP of 09/266,197 03/10/1999 PAT 6,329,391
which is a CIP of 09/139,859 08/25/1998 ABN
which claims benefit of 60/058,891 09/15/1997

Foreign Applications

If Required, Foreign Filing License Granted: 06/23/2003

Projected Publication Date: 10/02/2003

Non-Publication Request: No

Early Publication Request: No

Title

Antimicrobial quinolones, their compositions and uses

Preliminary Class

514

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

JUN 14 2005

In re Application of	:	
Robert C. Miller	:	AP
Serial No:10/392,497	:	PETITION UNDER
Filed: March 20, 2003	:	M.P.E.P. 708.02, IV
For: HEATING SETTING MACHINE WITH SEALING HEAD	:	

This is in response to the petition filed June 6, 2005, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement of age. Accordingly, the petition is denied.

The petition is **DENIED**

R Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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JUL 17 2006

OFFICE OF PETITIONS

Davis and Jack LLC
Attorneys at Law
2121 West Maple
PO Box 12686
Wichita, Kansas 67277-2686

In re Application of
Ford
Application No. 10/392/499
Patent No. 6,945,440
Filed: March 20, 2003
Attorney Docket No. 2581

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT ISSUED UNDER 37 CFR 1.705(D)" timely[1] filed on September 29, 2005 requesting that the Patent Term Adjustment be adjusted from fourteen (14) days to an amount of one hundred and thirty-four (134) days.

Applicants' petition is **DISMISSED**. Applicants failed to pay or authorize the petition fee pursuant to 37 CFR 1.18(e). The Office will not look into the merits of the request since applicants did not authorize payment of the fee.

Applicants are given thirty (30) days to respond to this decision. No extensions of time are granted under 37 CFR 1.136(a).

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

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

[1]Patent issue date September 20, 2005

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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET, SUITE 2490
EAST ROCHESTER, NY 14445

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OFFICE OF PETITIONS

In re Application of :
Spencer Z. Rosero et al :
Application No. 10/392,506 : DECISION ON PETITION
Filed: March 20, 2003 : TO WITHDRAW
Attorney Docket No. 1008 034 301 0251 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2005.

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

A review of the file record indicates that the power of attorney to Howard J. Greenwald 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.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Basch & Nicherson LLP
1777 Penfield Road
Penfield, NY 14526

cc: Michael L. Weiner
Blomed Solutions LLC
150 Luclus Gordon Drive Suite 215
West Henrietta, NY 14568

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
McDonough et al.	:	
Application No. 10/392511	:	DECISION ON PETITION
Filed: 03/20/2003	:	
Atty Docket No. TI-35274	:	

This is a decision on the petition filed on 20 April, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 December, 2006, for failure to timely respond to the non-final Office action mailed on 18 September, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 17 April, 2007.

---

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

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

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

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

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the amendment filed as the required reply is acknowledged.

The application is referred to Technology Center Art Unit 2611 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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RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

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OFFICE OF PETITIONS

In re Application of :
Fan :
Application No. 10/392,524 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. USP2048A-GXF :
For: EXHAUST FILTER SYSTEM FOR NON-ROAD ENGINE

This is a decision on the petition, filed May 1, 2006 (certificate of mailing date April 26, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 6, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 7, 2005. A Notice of Abandonment was mailed on April 4, 2006.

Applicant has submitted an amendment and drawings in reply to the September 6, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 6, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1764 for consideration of the amendment and drawings filed on May 1, 2006 (certificate of mailing date April 26, 2006).

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

Shirene Willis Brantley

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

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MAY 16 2006

Thomas M. Coester
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of ROSETH, STEVEN H.
Appl. No.: 10/392,525
Filed: March 19, 2003
For: Reclosable Food container

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed April 14, 2005, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled Response to Final Office Action, filed April 13, 2005, be expunged from the record. Petitioner states that 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(h) has been authorized to be charged to Deposit Account Number 02-2666. This is construed as an authorization to charge the petition fee as set forth in 37 CFR 1.17 (g) as is currently required.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

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 has been removed from the official file. In as much as papers cannot be physically expunged from the Image File Wrapper (IFW) file or returned to petitioner, they have been marked as "improper documents which should not have been entered" are being closed to the public view.

The application is being forwarded to TC 3700 Head Supervisory Applications Examiner to charge the appropriate fee to the authorized Deposit Account prior to being returned to the Board of Appeals.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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FEB 24 2006

TECHNOLOGY CENTER 3600

John W. Renner
Renner, Otto, Boisselle & Sklar
1621 Euclid Avenue, 19th Fl.
Cleveland, Ohio 44115

In re Application of: Geert Van Gijsel et al.	:	PETITION TO REQUEST
Application No. 10/392,541	:	SUPERVISORY REVIEW
Filed: March 20,2003	:	UNDER
Attorney Docket No.: ERICP0332USA	:	37 C.F.R. 1.181
For: SUSPENSION SYSTEM	:	

This is in response to applicants' petition filed on August 15, 2005 to withdraw the finality of the May 20, 2005 Office action and to consider certain claims withdrawn from consideration by the examiner.

The petition is **GRANTED-IN-PART**.

Petitioner argues that the examiner has failed to act on a number of claims considered to be drawn to the elected invention, and to combination claims where a separate fastener is used between the suspension system and structure, or where a seismic lock is used on the jam cleat. Petitioner also argues, that several dependent claims, some of which depend from allowed claims, are still withdrawn by the examiner.

A review of the file history indicates that an election of species requirement was mailed on July 1, 2004 and an election was filed by petitioner on July 30, 2004. This election indicated the intention to prosecute the claims directed to Species 1 as illustrated by figures 1 and 4-10. A review of the most recent set of claims filed on July 22, 2005, the examiner's Final rejection dated May 20, 2005, and the Advisory Action dated August 4, 2005 indicates that in addition to the claims cancelled by petitioner for the purpose of filing divisional applications, the examiner has withdrawn claims 8, 35, 49-52, 55-62, 68-72, and 73-82 as being directed to non-elected species. A review of the withdrawn claims indicates that claims 8 and 35 are directed to the species of Figure 26 and claims 49-52, 55-62, and 68-72 are directed to the species of Figures 16, 17, and 20-22. As such these claims are not considered to be directed to the elected invention of species 1. However, claims 73-82 are directed to features of the wire and jam cleat structure as set forth in Figures 1 and 4-10 with only an intended use of how the wire is mounted to the structure. This type of limitation is not a positive recitation of structure and as such

is not seen to require the details of the other species. As for the argument that several of the withdrawn dependent claims depending from allowed claims and, as such, these claims should have been allowed, the facts of the instant application do no support this position. Currently, there are no claims indicated as allowed. There are several claims indicated by the examiner as containing allowable subject matter and until these are allowed the dependent claims directed to other species that depend from these claims will not be considered.

Accordingly, the petition as to claims 8, 35, 49-52, 55-62, and 68-72 being considered as directed to the elected species is denied. However, the petition as to claims 73-82 is granted.

The finality of the August 20, 2005 Office action is withdrawn so the examiner can enter a new Office action containing an action on the merits of claims 73-82.

With respect to claim 36 not being addressed in the Final rejection dated May 20, 2005, the examiner will be directed to treat this claim in the new Office action.

Accordingly, the petition is granted-in-part as directed to claims 36 and 73-82. This case will be forwarded to the examiner for the prompt preparation of a new Office action.

It is noted that petitioner submitted a petition fee of $400 for consideration of this petition. Please note that petitions filed under 37 CFR 1.181 requesting supervisory review do not require a fee. Petitioner may request a refund of the petition fee in a separate letter directed to the application file.

Summary: ***Petition GRANTED-IN-PART***

John J. Love, Director
Patent Technology Center 3600
(571) 272-5250

JJL:rpo: 02/06/06

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#4

TAFT, STETTINIUM & HOLLISTER
425 WALNUT STREET
SUITE 1800
CINCINNATI, OH 45202-3957

In re Application of :
Ray C. Wasielewski : DECISION PETITION
Serial No.: 10/392,553 :
Filed: March 20, 2003 :
Attorney Docket #ORW01-GN002

This is in response to the petition applicant filed on March 31, 3003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Box Design, Washington, DC 20231, or by telephone at (703)308-0873 or by facsimile transmission at (703)308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Paper No. 4

BOLESH J. SKUTNIK
515 SHAKER ROAD
EAST LONGMEADOW, MA 01028

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JUL 11 2003

OFFICE OF PETITIONS

In re Application of :
Grafe, et al. :
Application No. 10/392,557 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. BJA309A :

This is a decision on the petition filed June 16, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003.

The application was filed on March 20, 2003. However, on May 12, 2003, the Office of Initial Patent Application mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on June 16, 2003, the instant petition was submitted. Petitioner asserts, "drawings were submitted with this application, however they were submitted as part of the specification and not as separate drawings... Figure 1 is represented on page 7, line 10 and Figure 2 is represented on page 9, line 10 [in the specification]."

In view of the papers filed on June 16, 2003, it appears that the drawings of Figures 1 and 2 were present on March 20, 2003, in the specification, but not on separate sheets of drawings. Since it is now clear that all required Figures were present on March 20, 2003, albeit in the body of the specification and not on separate sheets of drawings, the drawings and figures may be considered as filed with the application on March 20, 2003.

The petition is granted.

Please note, the $130.00 petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

This application will be returned to OIPE for further processing with a filing date of March 20, 2003 and issuance of a "Notice to File Corrected Filing Papers" regarding drawing compliance with 37 CFR 1.84.

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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12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Fawley, Norman C.
Application No. 10/392,561
Filed: March 19, 2003
Attorney Docket No. 59910P005

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 30, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of September 23, 2004 was previously mailed on April 9, 2004.

This matter is being forwarded to the Publishing Division to await a reply to the Notice of Allowance mailed March 31, 2004. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning this decision 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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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Benjamin Oshlack, et. al. :
Application No. 10/392,586 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 6750-359-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 11, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed October 24, 2005. A Notice of Abandonment was mailed on August 23, 2006.

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

The Office also acknowledges receipt of a Terminal Disclaimer and fee of $130 filed on January 11, 2007. 37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since this application is not a utility or plant application filed on or before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer is unnecessary and the fee of $130 will be refunded to petitioner's deposit account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Benjamin Oshlack, et al	:	
Application No. 10/392,586	:	DECISION ON PETITION
Filed: March 20, 2003	:	
Attorney Docket No. 6750-359-999	:	

This is a decision on the petition under 37 CFR 1.182, filed September 5, 2007, which requests that the Terminal Disclaimer filed February 10, 2005 be replaced by the Terminal Disclaimer submitted on January 11, 2007.

The petition is **GRANTED**.

Petitioner asserts that the Terminal Disclaimer filed on February 10, 2005, contained an error, in that the wrong name of the assignee was listed. Therefore, petitioner filed a substitute Terminal Disclaimer on January 11, 2007.

The Terminal Disclaimer filed on January 11, 2007 has been accepted and made of record.

As authorized, the $130 for the Terminal Disclaimer and $400 for treatment of the present petition have been charged to petitioner's deposit account.

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

Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No. 9

Eric L.Maschoff
Workman Nydegger & Seeley
60 E South Temple Suite 1000
Salt Lake City,UT 84111

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OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of
Walker, Francis, Evans, and Liu
Application No.: 10/392,599
Filed: March 18, 2003
Attorney Docket No: 15436.247.48.1
For: ELECTRICALLY PUMPED SEMICONDUCTOR ACTIVE REGION WITH A BACKWARD DIODE, FOR ENHANCING OPTICAL SIGNALS

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed December 15, 2003.

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 18, 2003, and was not accompanied by an executed declaration or the filing fee. A Notice to File Missing Parts of Nonprovisional Application was mailed on May 14, 2003, requiring a properly executed declaration and surcharge and payment of the filing fee. The notice allowed an extendable period for reply of two months from its mailing date. On December 15, 2003, the instant petition was filed along with a request for an extension of time within the fifth month. The filing fee was also paid on December 15, 2004. It is noted that the Notice of Missing Parts of Nonprovisional Application mailed May 14, 2003, was withdrawn by a notice mailed January 20, 2004. A new Notice to File Missing Parts of Nonprovisional Application was mailed on January 20, 2004, requiring the oath or declaration and payment of the surcharge.

Petitioner has shown that inventor Liu 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 (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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101 DYER STREET
5TH FLOOR
PROVIDENCE, RI 02903

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MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Carol Malone :
Application No. 10/392,623 : DECISION GRANTING PETITION
Filed: March 20, 2003 : UNDER 37 CFR 1.47(b)
For: COMPOSITE ELASTOMERIC SEAL FOR:
SEALING FLUID LINES :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed August 22, 2003 (Certificate of Transmission date: August 20, 2003). The petition was recently forwarded to this office for consideration.

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 Michael F. Whelihan and statement of facts of Daniel W. Sullivan establish that the inventor was mailed the application papers, including the specification, claims and drawings, but refused the request that she sign the declaration. In addition, petitioner has shown that Precix, Inc. ("Precix") has a proprietary interest in the above-identified application with the copies of the "Patent and Technical Know-How Contract" and "Confidential Information and Non-Disclosure Agreement" which show that the inventor had an obligation to assign any patent rights to Precix. 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Publishing Division.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAROL MALONE
356 RACE LANE
MARSTONS MILLS, MA 02648

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of
Carol Malone
Application No. 10/392,623
Filed: March 20, 2003
For: COMPOSITE ELASTOMERIC SEAL FOR SEALING FLUID LINES

Dear CAROL MALONE:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. 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

BARLOW, JOSEPHS & HOLMES, LTD.
101 DYER STREET
5TH FLOOR
PROVIDENCE, RI 02903

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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GUNSTER, YOAKLEY & STEWART PA
BROWARD FINANCIAL CENTER
SUITE 1400
500 EAST BROWARD BOULEVARD
FT. LAUDERDALE, FL 33394

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Mohammad Alkhalili et al : DECISION ON PETITION
Application No. 10/392,658 : UNDER 37 CFR 1.137(b)
Filed: March 20, 2003 :
Attorney Docket No. 16960-CWC14U :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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 March 20, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2005. A Notice of Abandonment was mailed on May 4, 2006.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee, the petition fee of $1,500, and the required statement of unintentional delay have been submitted. Accordingly, the submission of the issue and publication fees is accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
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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MARVIN S. GALLENSON
LADAS & PERRY
5670 WILSHIRE BOULEVARD
SUITE 2100
LOS ANGELES, CA 90036-5679

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MAY 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Alivisatos et al.	:	DECISION ON PETITION
Application No. 10/392,668	:	TO WITHDRAW
Filed: March 18, 2003	:	FROM RECORD
Attorney Docket No. 951438-1	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 5, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because petitioner failed to provide a reason for the withdrawal.

A Power of Attorney was submitted on August 2, 2005. However, since the instant petition has not been approved and/or a Revocation of Power of Attorney has not be submitted, the Power of Attorney cannot be accepted.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

Cc: TOWNSEND AND TOWNSEND AND CREW
TWO EMBARACADERO CENTER 8TH FLOOR
SAN FRANCISCO, CA 94111

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
111 FRANKLIN STREET, 12TH FLOOR
OAKLAND, CA 94607-5200

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MAVIS S. GALLENSON
LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Alivisatos et al.	:	DECISION ON PETITION
Application No. 10/392,668	:	TO WITHDRAW
Filed: March 18, 2003	:	FROM RECORD
Attorney Docket No. B-5618 951438-1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2006.

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

A review of the file record indicates that on August 25, 2006 the power of attorney to Ladas & Parry 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: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Robert F. Kirstein :
Application No. 10/392,675 : DECISION GRANTING PETITION
Filed: March 20, 2003 : UNDER 37 CFR 10(d)
Attorney Docket No. P/2-3050 :

This is a decision on the petition, filed June 24, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, rather than the presently accorded date of March 21, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 20, 2003, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL 583737925US, the same Express Mail number which appears on the transmittal letter for the instant application, bearing a "date-in" of March 21, 2003. Additionally, the petition is accompanied by a copy of applicant's log of Express Mail entitiled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post," which discloses that an Express Mail package bearing label number EL 583737925US was signed for by a USPS employee on March 20, 2003. The petition is further accompanied by a statement from the USPS which states that the package bearing Express Mail label No. EL 583737925US was delivered on March 21, 2003 at 11:20 AM in Arlington, VA 22202 and signed for by B. Anderson. In view thereof, applicant requests that this application be accorded a filing date of March 20, 2003.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of

> deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (emphasis supplied).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS (emphasis supplied).

The evidence submitted satisfies the showing required by 37 CFR 1.10(d) in establishing that this application was deposited by Express Mail on March 20, 2003. Accordingly, the instant application is entitled to a filing date of March 20, 2003, and has been so accorded.

The petition is **granted**.

Any inquiries specific to this decision should be directed to Frances Hicks at (703) 305-8680.

Brian Hearn

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

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15TH FLOOR
NEW YORK NY 10016

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Azerad et al.	:	DECISION ON PETITION
Application No. 10/392,699	:	
Filed: 20 March, 2003	:	
Atty Docket No. 146.1349-DIV	:	

This is a decision on the petition filed on 14 June, 2004, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment. The Office apologizes for the delay in responding to the present petition.

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

---

[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)).

permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." or "Renewed Petition to withdraw the holding of abandonment."

The application became abandoned on 18 August, 2003, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 17 June, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

Petitioners assert that the Notice mailed on 17 June, 2003, was never received. In support, petitioners have provided a copy of a mail log.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Notice mailed on 17 June, 2003, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action 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.[2] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners have not presented a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, or a copy of the docket record where the non-received Office communication would have

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[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

been entered had it been received and docketed attached to and referenced in petitioner's statement. As the required showing has not been presented, the petition must be dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. 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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action

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[3] 35 U.S.C. § 133.

[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As the showing of record, petitioners' assertion that the Notice mailed on 17 December, 2003, and a mail log, are insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

Petitioners should submit a copy of their docket report, along with a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received with a renewed petition.

A courtesy copy of the Notice mailed on 17 June, 2003, is enclosed for petitioners' reference.

Receipt of the change of correspondence address filed on 2 December, 2004, is acknowledged. The address of record has been updated.

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

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

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

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

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[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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

Enclosure: Notice mailed 17 June, 2003

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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CHARLES A. MUSERLIAN
C/O BIERMAN, MUSERLIAN AND LUCAS
600 THIRD AVENUE
NEW YORK NY 10016

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Azerad et al.	:	DECISION ON PETITION
Application No. 10/392,699	:	
Filed: 20 March, 2003	:	
Atty Docket No. 146.1349-DIV	:	

This is a decision on the "Renewed Petition to Withdraw the Holding of Abandonment" petition filed on 28 June, 2005, which is treated in the alternative as a petition under 37 CFR 1.137(b). [1]

The petition to withdraw the holding of abandonment is **dismissed**.

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

---

[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)).

The application became abandoned on 18 August, 2003, for failure to timely file a response to the Notice to File Corrected Application Papers mailed on 17 June, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition filed on 14 June, 2004, was dismissed on 27 May, 2005.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Notice mailed on 17 June, 2003, was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action 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.[2] 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 action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners have not presented a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received, or a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed attached to and referenced in petitioner's statement. As the required showing has not been presented, and no further showing has been presented in this regard, the petition must be dismissed.

---

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

PETITION UNDER 37 CFR 1.137(b)

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 17 2003

David R. Saliwanchik
2421 N.W. 41st Street, Suite A-1
Gainsville, FL 32606-6669

In re Application of :
Joseph C. Cauthen :
Serial No.: 10/392,729 : DECISION ON PETITION
Filed: March 19, 2003 :
For: Spinal Disc Annulus Reconstruction :
Method and Spinal Disc Annulus Stent :

This is in response to applicants' petition filed May 15, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE FL 32606-6669

In re Application of :
Joseph C. Cauthen :
Serial No.: 10/392,733 : DECISION ON PETITION
Filed: March 19, 2003 :
For: Spinal Disc Annulus Reconstruction :
Method and Spinal Disc Annulus Stent:

This is in response to applicants' petition filed May 15, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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OFFICE OF PETITIONS

In re Patent No. 6,918,891 :
Application No. 10/392,734 :
Filed: March 19, 2003 : ON PETITION
Issued: July 19, 2005 :
Attorney Docket No. P-5440 :

This is a decision on the petition filed August 25, 2005, which is being treated as a request under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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

Telephone inquiries should be directed to Petitions Examiner Liana Chase at (571) 272-3282. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

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

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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Paper No. 5

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LAW OFFICES OF RONALD M. ANDERSON
Suite 507
600 - 108th Avenue N.E.
Bellevue WA 98004

MAIL

OCT 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
BRONDER, MATTHEW L. :
Serial No.: 10/392,740 :
Filed: March 19, 2003 : DECISION ON PETITION
For: **REAL TIME DATA MATCHING** : *ACCEPTANCE OF COLOR PHOTOGRAPHS*

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, March 22, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 2A, 2B, 2C, 3, and 5 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Krista Zele
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
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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
10/392,744	03/18/2003	2663	1938	002-20: CSN 6572	5	30	15

CONFIRMATION NO. 6766

30080
LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK, CA 94596-1607

CORRECTED FILING RECEIPT

OC000000012040190

Date Mailed: 03/05/2004

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)

Michael Lawrence Regal, Pleasanton, CA;
James Paul Rivers, Saratoga, CA;

Assignment For Published Patent Application

CISCO TECHNOLOGY, INC. (A California Corporation);

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2003

Projected Publication Date: 09/23/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for pre-empting low-priority traffic with high-priority traffic in a dedicated link

Preliminary Class
370

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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A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE FL 32614-2950

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Jacques Elfersy et al :
Application No. 10/392,746 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. BST-101D2 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The response submitted under 37 CFR §1.111 on March 28, 2005, is unsigned.

---

[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.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAINESVILLE FL 32614-2950

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OCT 31 2005

OFFICE OF PETITIONS

In re Application of :
Jacques E. Elfersy et al :
Application No. 10/392,746 : DECISION GRANTING PETITION
Filed: March 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. BST-101D2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a supplemental response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of December 24, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.
This matter is being referred to Technology Center AU 1712.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

Mark McBurney
International Business Machines Corporation
Intellectual Property Law Dept., Internal Zip 4054
11400 Burnet Road
Austin TX 78758

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Keohane et al. : DECISION ON PETITION
Application No. 10/392,761 :
Filed: March 19, 2003 :
Atty Docket No.AUS920030034US1:

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed February 24, 2009.

The petition 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)" or "Renewed Petition under 37 CFR §1.137(b)," as appropriate. Extensions of time under 37 CFR §1.136(a) are permitted.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, August 21, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on December 15, 2008.

In response, applicants filed the instant petition. Applicants state that the Notice of Allowance never arrived at the correspondence address of record at 11400 Burnet Road, Austin TX 78758.

37 CFR 1.137(a) provides that:

If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in § 1.17(l);
> (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes required reply in the form of a response to the NOTICE was filed on March 25, 2009. The petition includes payment of the petition fee. No terminal disclaimer is required. However, the petition is not grantable because it does not satisfy requirement (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also

Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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.

A review of the application image file wrapper reveals no irregularities in the mailing of the Notice of Allowance mailed August 21, 2008. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, applicants must submit evidence to overcome this presumption. As stated in MPEP 711.03(c), the following showing is required:

> 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.

Practitioner states that the Office action was not received by the practitioner. Practitioner describes the system for handling mail. Practitioner states that the Notice was not present in the computer record of the application. In support thereof, practitioner supplied a copy of the computer docket file for this application.

However, the showing is not sufficient. Practitioner describes the system used for recording an Office action received at the correspondence address of record with the USPTO. The only docket record provided is a printout for the present application. The required showing of non-receipt requires that petitioner supply a copy of the master docket 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. Petitioner has not explained the absence of a master docket. As quoted from the MPEP above, 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. Given the deficiencies in applicants' showing, it is concluded that the required showing of non-receipt has not been met and thus, petitioner has not made an adequate showing of unavoidable delay.

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

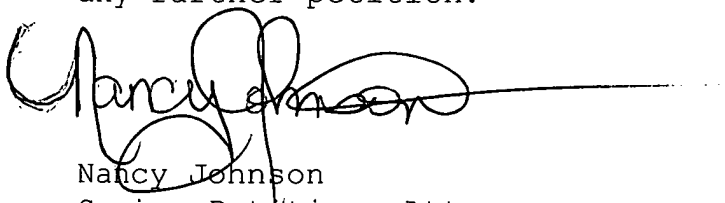
By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

Registered users of EFS-Web may alternatively submit their response to this decision via EFS-Web.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219. To facilitate quick action on any renewed petition, it is recommended that applicants advise the undersigned upon the electronic filing of any further petition.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: James Gilbert Starkey	: DECISION ON REQUEST FOR
Patent Number	: 7617117	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/392,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1600** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALEXANDRIA VA 22314

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MAR 17 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sumio Ikegawa et al :
Application No. 10/392,826 :
Filed: March 21, 2003 :
Attorney Docket No. 235651US2SRD :

This is a decision on the petition, filed March 16, 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 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2814 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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Paper No. _____

Date : March 17, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Sumio Ikegawa et al
Application No. :10/392,826
Filed :March 21, 2003

The above-identified application has been assigned Patent No. 6,876,020 and an issue date of April 5, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 5, 2005:

"All reference to Patent No. 6,876,020 to SumioIkega et al of Japan for AN INFRARED RAY DETECTING TYPE IMAGING DEVICE appearing in the Official Gazette of April 5, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, 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

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OIPE JC81
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NEUSTADT, P.C.
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ALEXANDRIA VA 22314

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MAR 17 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Sumio Ikegawa et al
Application No. 10/392,826
Filed: March 21, 2003
Attorney Docket No. 235651US2SRD

This is a decision on the petition, filed March 16, 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 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2814 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

RECEIVED: 31805
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 3/31/05
Type of Resp(s):
Due Date(s):

[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).

COPY

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MAR 09 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Michael D. Dednarek
Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102

In re application of
Scott Manley et al.
Application No. 10/392,848
Filed: March 21, 2003
For: SYSTEM AND METHOD FOR AUTOMATED ACCOUNT MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on May 8, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 2/13/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DLA PIPER LLP (US)
ATTN: PATENT GROUP
P.O. Box 2758
Reston VA 20195

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JAN 04 2010

In re Application of	:	
Nathans et al.	:	DECISION ON PETITION
Application No. 10/392,849	:	TO WITHDRAW
Filed: March 21, 2003	:	FROM RECORD
Attorney Docket No. 9520-004-64	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by James M. Heintz on behalf of all attorneys of record associated with Customer Number 24510. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, although the petition is signed by the attorney of record it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number.

Additionally, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, applicant has filed an Appeal Brief on December 10, 2009.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
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

DLA PIPER LLP (US)
ATTN: PATENT GROUP
P.O. BOX 2758
RESTON VA 20195

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FEB 12 2010

In re Application of	:	
Nathans et al.	:	DECISION ON PETITION
Application No. 10/392,849	:	TO WITHDRAW
Filed: March 21, 2003	:	FROM RECORD
Attorney Docket No. 9520-004-64	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 James M. Heintz on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed February 5, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Franklin B. Levin, Esq.
Senior Vice President & General Counsel
Pay Rent, Build Credit, Inc.
100 Canal Pointe Blvd., Suite 208
Princeton NJ 08540

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

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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Daisuke Sonoda et al	:	
Application No. 10/392,862	:	DECISION GRANTING PETITION
Filed: March 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501.42625X00	:	

This is a decision on the petition, filed September 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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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LAW OFFICE OF JIM ZEGEER
SUITE 108
801 NORTH PITT STREET
ALEXANDRIA, VA 22314

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Sheldon Keith John Swanson et al :
Application No. 10/392,867 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 3400-Z :

This is a decision on the petition under 37 CFR 1.313(b), filed May 20, 2005, which is being treated under 37 CFR 1.313(c)(3), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Petitioner is advised that difference matters are handled by different branches of the Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. *Note* 37 CFR 1.4(c).

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

This matter is being referred to Files Repository.

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Nobuhiro Hase et al :
Application No. 10/392,903 : DECISION GRANTING PETITION
Filed: March 21, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 43888-235 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 30, 2007 and resubmitted on December 3, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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NOV 27 2006

OFFICE OF PETITIONS

In re Application of :
Michael R. Michaelides et al :
Application No. 10/392,951 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 6902.US.02 :

This is a decision on the petition, filed July 25, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 14, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 submitted on July 25, 2006 was not signed, therefore; the petition is dismissed.

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

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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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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APR 05 2007

OFFICE OF PETITIONS

In re Application of :
Michael R. Michaelides et al :
Application No. 10/392,951 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 6902.US.02 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 3, 2007, 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 1624 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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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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AUG 21 2008

In re Application of :
Michael R. Michaelides et al :
Application No. 10/392,951 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 6902USO2 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 3, 2008.

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

This matter is being referred to Technology Center AU 1624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Paul M. Craig, Jr.
207 Quaint Acres Drive
Silver Spring MD 20904

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Paul M. Craig, Jr. :
Application No. 10/392,952 : DECISION ON PETITION
Filed: March 21, 2003 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 10, 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 statement from the applicant declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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 3677 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/392,952	03/21/2003	Paul M. Craig, JR.		6607

7590 07/09/2008

Paul M. Craig, Jr.
207 Quaint Acres Drive
Silver Spring, MD 20904

EXAMINER	
LAVINDER, JACK W	

ART UNIT	PAPER NUMBER
3677	

MAIL DATE	DELIVERY MODE
07/09/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 0 8 2008

TECHNOLOGY CENTER 3600

Paul M. Craig, Jr.
207 Quaint Acres Drive,
Silver Spring, MD 20904

In re Application of:
Paul M. Craig Jr.
Application No. 10/392,952
Filed: March 21, 2003

DECISION ON PETITION UNDER 37 CFR 1.181

For: OPEN HOSE CLAMP WITH PLASTICALLY DEFORMABLE EAR

This is in response to appellant's petition under 37 CFR 1.181 filed November 07, 2006 requesting the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) be either withdrawn or revised, which will be taken as requesting the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) filed October 30, 2007 be either withdrawn or revised.

The Petition is **GRANTED.**

Applicant alleges that the Notification of Non-Compliant Appeal Brief (form PTOL-462 (Rev. 7-05)) filed October 12, 2006 (herein referred to as "Notice"), should be withdrawn or revised because Appellant does not believe the Appeal Brief is Non-Compliant. Specifically, applicant argues that it was incorrect to select items 4, 8 and 10 in the Notice. Appellant argues that under item 4, the Notice alleged that the Brief did not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawing, if any, by reference characters. A review of the file history indicates that in the response to the Notice filed October 12, 2006, a Supplemental Appeal Brief was filed by Appellant on November 07, 2006. The Supplemental Appeal Brief addressed the alleged defects (items 4, 8 & 10) as set forth in the Notice. In response to the Supplemental Appeal Brief a second Notice of Non-Compliant Appeal Brief was filed on October 30, 2007. A review of this notice reveals that Appellant's Supplemental Appeal Brief corrected item 4 regarding a concise explanation of the subject matter defined in each of the independent claims. Therefore, this issue is considered to be moot as being met by the Supplemental Appeal Brief filed November 07, 2006. Regarding item 8 of both Notices that alleged that the brief did not contain copies of the evidence submitted because the Appeal Brief filed by Appellant included a copy of the Appealed Claims as well as copies of the exhibits. A review of the Supplemental Appeal Brief indicates that "EXHIBIT 4" has been

provided, and the remaining evidence in question is comprised of three United States patents (2,614,304; 4,299,012; & 5,305,499) which may have been lost or misplaced in the PTO. Since the missing evidence is comprised of United States patents, the requirement that Appellant provide these copies will be withdrawn and the patents will be supplied by the examiner. Regarding item 10, specifically as it relates to the requirement for appellant to state the structure and function of every means plus function limitation. In view of appellant's arguments and particularly "EXHIBIT 4", which uses reference numbers to identify the means plus function limitations, the requirement is considered to be met and accordingly the Appeal Brief is considered to be compliant.

For the foregoing reasons, the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) filed October 30, 2007 will be withdrawn, the Supplemental Brief filed November 07, 2006 in concert with an examiners answer will be considered to correct defects set forth in the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) filed October 12, 2007 and the application will be forwarded to the examiner of record to treat Appellant's Appeal Brief concurrently.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

vb/snm: 6/20/08

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

MAY 28 2004

Director's Office
Group 3700

Mr. Tim Maier
Min, Hsieh & Hack LLP
2121 K Street, NW 20037

In re application of
Thomas J. Wood

Serial Number: 10/392959
Filed: March 21, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **NASAL INTERFACE INCLUDING VENTILATION INSERT**

This is a decision on the petition filed on April 30, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 5/26/04

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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wk

Mailed: 7-18-06

In re application of	:	
Sheri L. McGuire et al.	:	DECISION ON
Serial No. 10/392,999	:	PETITION
Filed: March 20, 2003	:	
For: Flame-Retardant Non Wovens For Panels	:	

This is a decision on the petition filed on April 5, 2006. The petition requests to reset the period of reply of an office action.

Applicants never received an Office Action dated October 25, 2005. The final Rejection was mailed and returned to the US Patent Office as "undelivered". Applicant had previously submitted a "Notice of Customer Number Record Change" for customer number 22474 on June 10, 2005. Applicant became aware of the final rejection on March 21, 2006 when using PAIR.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **GRANTED**.

The correspondence address will be corrected in the application and the final office action will be remailed and the time for reply restarted.

Jacqueline M. Stone

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

Gregory N. Clements
Dougherty, Clements & Hofer
1901 Roxborough Road
Suite 300
Charlotte, North Carolina 28211

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

wk

Mailed: 7-18-06

In re application of	:	
Sheri L. McGuire et al.	:	DECISION ON
Serial No. 10/392,999	:	PETITION
Filed: March 20, 2003	:	
For: Flame-Retardant Non Wovens For Panels	:	

This is a decision on the petition filed on April 5, 2006. The petition requests to reset the period of reply of an office action.

Applicants never received an Office Action dated October 25, 2005. The final Rejection was mailed and returned to the US Patent Office as "undelivered". Applicant had previously submitted a "Notice of Customer Number Record Change" for customer number 22474 on June 10, 2005. Applicant became aware of the final rejection on March 21, 2006 when using PAIR.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **GRANTED**.

The correspondence address will be corrected in the application and the final office action will be remailed and the time for reply restarted.

Jacqueline M. Stone

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

Gregory N. Clements
Dougherty, Clements & Hofer
1901 Roxborough Road
Suite 300
Charlotte, North Carolina 28211

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed:

In re application of	:	
Sheri L. McGuire et al.	:	DECISION ON
Serial No. 10/392,999	:	PETITION
Filed: March 20, 2003	:	
For: Flame-Retardant Non Wovens For Panels	:	

This is a decision on the petition filed on April 5, 2006. The petition requests to reset the period of reply of an office action.

Applicants never received an Office Action dated October 25, 2005. The final Rejection was mailed and returned to the US Patent Office as "undelivered". Applicant had previously submitted a "Notice of Customer Number Record Change" for customer number 22474 on June 10, 2005. Applicant became aware of the final rejection on March 21, 2006 when using PAIR.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **GRANTED**.

The correspondence address will be corrected in the application and the final office action will be remailed and the time for reply restarted.

Jacqueline M. Stone

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

Gregory N. Clements
Dougherty, Clements & Hofer
1901 Roxborough Road
Suite 300
Charlotte, North Carolina 28211

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of :
Hideo Uwagaki et al :
Application No. 10/393,007 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 1247-0497P :

This is a decision on the petition, filed February 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2861 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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JJGJr: 07-06

Paper No: __

DANIEL REX GREENING
CRESCENT AVENUE
SAUSALITO CA 94565

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Greening, et al.	:	
Application No. 10/393,076	:	DECISION
Filed: 18 March, 2003	:	
Attorney Docket No.: BIG TRIBE-001	:	

This is a decision on the petition, filed 17 May, 2006, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f).

NOTES:

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

---

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

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

The petition is **DISMISSED as moot**.

Petitioner states that the instant nonprovisional application, filed on 18 March, 2003, is the subject of an application filed in a foreign country or otherwise requiring publication on 18 March, 2003, Moreover, Petitioner submitted the instant petition (with recision request) 17 May, 2006, upon learning of the error.

Thus, Petitioner alleges unintentional failure to notify the U.S. Patent and Trademark Office of this filing of the subject application in a foreign country within 45 days of that filing.

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

---

§ 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]

A petition under 37 C.F.R. §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 C.F.R. §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 application apparently was simultaneously filed petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. The application published on 29 January, 2004

Petitioner may request of the Finance Office a refund of the petition fee–a copy of this decision should be included therewith.

This application is being released to Technology Center 3600 for further processing in due course.

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

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

cc:
ROBERT A. HULSE
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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

COPY MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel Rex Greening	:	
Application No. 10/393,076	:	DECISION ON PETITION
Filed: March 18, 2003	:	TO WITHDRAW
Attorney Docket No. **22803-11401**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed August 6, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Robert A. Hulse on behalf of all attorneys of record who are associated with Customer No. 00758.

All attorneys/agents associated with the Customer No. 00758 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 Jose Clavel Escribano at the address list below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Daniel Rex Greening
89 Crescent Avenue
Sausalito, CA 94965

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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
10/393,076	03/18/2003	Daniel Rex Greening	22803-11401

CONFIRMATION NO. 8478

POWER OF ATTORNEY NOTICE

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 09/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2009.

- 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.

/jlburke/

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

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PAPER NO. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

JUL 02 2003

OFFICE OF PETITIONS

In re Application of
Hippolit Gstrein
Application No. 10/393,085
Filed: March 20, 2003
Attorney Docket No. 5689-278

DECISION GRANTING PETITION

This is a decision on the petition styled "Petition to Accord the Proper Filing Date" filed June 11, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, instead of the presently accorded date of March 21, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in "Express Mail" service with the U. S. Postal Service (USPS), on March 20, 2003. In support, petitioner provides, inter alia, a copy of the Express Mail label, receipt no. EV193629329US. It is noted that while the handwritten "date-in" marking on the "Express Mail" mailing label in question was omitted by the USPS, the label includes, what appears to be, a "CRABTREE VALLEY STATION" USPS receipt stamp dated March 20 2003. The same Express Mail receipt number appears on the original Application Transmittal Letter, which includes a statement of express mailing dated March 20, 2003. Petitioner requests correction of the filing receipt to accord the application with the filing date when the application was received by the USPS, March 20, 2003.

A review of the USPS Express Mail Track/Confirm record (copy attached) confirms that the Express Mail package in question was accepted on March 20, 2003 at 5:27pm. Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 20, 2003.

The petition is GRANTED.

The application is being forwarded to Initial Patent Examination Division for correction of the filing date to **March 20, 2003**.

Applicant is reminded that the time continues to run on the Notice to File Missing Parts of Nonprovisional Application mailed May 30, 2003.

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

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

Attachment: Track & Confirm record

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Paper No. 3

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of
Park, et al.
Application No. 10/393,086
Filed: March 20, 2003
Attorney Docket No. 5649-1010
For: METHODS OF FORMING INTEGRATED CIRCUIT DEVICES INCLUDING CYLINDRICAL CAPACITORS HAVING SUPPORTERS BETWEEN LOWER ELECTRODES AND INTEGRATED CIRCUIT DEVICES FORMED THEREBY

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(e), filed May 22, 2003 (certificate of mailing date May 20, 2003), requesting that the above-identified application be accorded a filing date of March 20, 2003. The petition will be treated under 37 CFR 1.10(c).

A review of Office computer records reveals that the application was received on March 21, 2003. According to Office computer records, the present filing date accorded to the application is March 20, 2003. Nevertheless, petitioner allegedly received a Filing Receipt that listed March 21, 2003 as the filing date of the above-identified application. To clarify the record, the petition under 37 CFR 1.10(c) will be addressed.

Petitioner requests a March 20, 2003 filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on March 20, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV193584622US showing an illegible "date-in" **and** a USPS date stamp of MAR 20 2003. The same Express Mail label number is listed on the original Utility Patent Application Transmittal Letter found in the application file. In addition, petitioner has submitted a USPS Track and Confirm Shipment History for the package associated with Express Mail label no. EV193584622US that shows that the package was accepted by the USPS on March 20, 2003.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV193584622US was deposited with the USPS on March 20, 2003.

Accordingly, the petition is **GRANTED**. Pursuant to petitioner's authorization, deposit account no. 50-0220 will be credited the $130 petition fee submitted with the instant petition.

Please find enclosed a replacement filing receipt that lists the filing date of this application as March 20, 2003.

The application is being returned to the Office of Initial Patent Examination in order to reprocess the application papers with a filing date of **March 20, 2003**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

SPE N. Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/393,093

Paper No.: _____

DATE : 6/27/05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6881999

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

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

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

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

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

Comments:

All changes approved

FAZLI ERDEM

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Nathan Flynn — **SPE**

2826 — **Art Unit**

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Paper No. 110104

DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

DEC - 8 2004

In re Application of:
Kurtz et al.
Serial No.: 10/393,099
Filed: March 19, 2003
Attorney Docket No.: **Kulite-85**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 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 Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/15/2005

TO SPE OF : ART UNIT 2600 (2635)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,870,915

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

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

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

Okay to include claim 40 in c of c as req.?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

claim 40 was indicated allow in the FWCLM paper.

JEAN TSANG
~~SUPERVISORY PATENT EXAMINER~~
~~TECHNOLOGY~~ SPE ~~CENTER 2600~~

2614
Art Unit

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AUG 3 2004

VP
PAPER NO. ___

In re Application of	:	
Leonard D. Rood	:	
Serial Number: 10/393,107	:	PETITION UNDER
Filed: March 20, 2003	:	M.P.E.P.708.02 IV
For: NEGATIVE STATIC ELECTRICALLY CHARGED COATING FOR GLASS	:	

This is in response to the petition filed December 15, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

Marian C Knode

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

KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG OH 43068

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 07/26/2010

Applicant	: Tissa Senevirathne	: DECISION ON REQUEST FOR
Patent Number	: 7672228	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/393,113	: OF WYETH
Filed	: 03/19/2003	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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MAILED

JUN 2 2004

Office of the Director
Group 3600

JINAN GLASGOW
P.O. BOX 28539
RALEIGH, NC 27611-8539

In re application of : **DECISION ON PETITION**
Michael Godwin : **TO MAKE SPECIAL**
Application No. 10/393,118 : **(APPLICANT'S AGE)**
Filed: March 20, 2003 :
For: RAPID ESCAPE SYSTEM FOR BUILDINGS

This is a decision on the petition submitted on August 22, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of the birth certificate indicating that Mr Godwin is at least 65 years of age.

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

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

SUMMARY: Petition to Make Special **GRANTED**.

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

KJD/dcg: 5/26/04

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

JUN 04 2006

In re Application of:
KILCHER, BEAT et al
Serial No.: 10/393,119
Filed: Marc. 21, 2003
Docket: HAWE-48
Title: RUBBER DAM

DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on May 12, 2006 to enter the amendment after final under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181 and no fee therefore is required.

The petition is **DISMISSED**.

In the petition the applicant requests a review of the examiner's refusal to enter the amendment after final filed on Mar. 14, 2006 in the Advisory Action issued by the examiner on Mar. 29, 2006. In the Advisory Action, the examiner refused to enter the amendment after final because the newly amended dependent claim 5 raises new issues requiring further search and/or consideration. In particular, the petitioner attempts to broaden claim 5 by deleting the limitation "the bag being disposed asymmetrically with respect to the plane of the rim and no perpendicularly thereto". The petitioner stated that the newly amended claim 5 would place the application in better condition for appeal because the broadened claim 5 would make the examination and appeal simpler. The petitioner also opines that the remaining features of other dependent claims 7-13 were already searched. Therefore, the deletion of the asymmetry language of claim 5 would simplify the appealable issues.

The record shows that:

1) On Jul. 18, 2005, the examiner issued a non-final Office action rejecting claims 1-14. In the examiner's response to arguments, the examiner acknowledged that the applicant failed to perfect the priority claim of the invention in accordance with 37 CFR 1.55 and MPEP 201.15 because no English translation and certified copy of the foreign application were filed. Therefore, the Heasley patent document (2003/0190584) was used in the rejection.

2) On Oct. 17, 2005, the applicant filed a response to the non-final Office action traversing the rejection of claims 1-14. In the amendment, the applicant made no comments regarding the priority claim.
3) The examiner issued a final Office action on Dec. 14, 2005 rejecting all claims in the case.
4) On Feb. 14, 2006, the applicant filed an amendment after final under 37 CFR 1.116 which include a certified English translation of the earlier foreign filed application in Switzerland to perfect the priority claim. The applicant requested the examiner to withdraw the rejection of claims 5, 7-13 based on Heasley patent document.
5) Subsequently, the examiner issued an Advisory Action on Feb. 27, 2004 stating that the newly amended claims create new combinations of elements in which have not been considered before. The examiner further stated that the priority document, i.e. the English translation, does not support the limitation of an asymmetrical bag as stated in claim 5.
6) In response to the advisory action of Feb. 27, 2006, the applicant filed another amendment after final on Mar. 14, 2006, *inter alia*, deleting the limitation "the bag being disposed asymmetrically with respect to the plane of the rim and no perpendicularly thereto" from claim 5 in order to overcome the examiner's objection regarding the priority claim.
7) On Mar. 29, 2006, the examiner issued another Advisory Action refusing to enter this amendment after final of Mar. 14, 2006 because the deletion of the limitation of asymmetrically raises new issues requiring further search and/or consideration.
8) On May 12, 2006, the present petition to request entry of the amendment after final of Mar. 29, 2006 was filed. Petitioner argued that the amendment after final would place the application in better condition for appeal purposes and reduce appealable issues due to the perfection of priority claim and removal of the Heasley patent document against claim 5, 7-13.

Discussion and Analysis

Relevant portions of 37 CFR § 1.116 Amendments and affidavits or other evidence after final action and prior to appeal, state: (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; (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

In order to determine whether or not that the broadened claim 5 raises new issue, which requires further search and or consideration, a comparison of the newly amended claim 5 of Mar. 14, 2006 and the existing claim 5 of Oct. 17, 2005 under final rejection, must be made. The difference is the deletion of the limitation "the bag being disposed asymmetrically with respect to the plane of the rim and no perpendicularly thereto" from the finally rejected claim 5. Since the

applicant did not cancel the entire claim 5 and its dependent claims 7-11 and 13 in the amendment after final filed on Mar. 14, 2006, then, there is no reduction of any appealable issue involved. In this case, the applicant broadened claim 5 which would require further consideration and search to the broader structure as correctly pointed out in the examiner's advisory action of May 29, 2006. By deleting the limitation in claim 5, the examiner will have to re-consider the various combinations of claim elements and possibly re-search the claims in a broader scope of search fields than the original search. Furthermore, the broadened claim 5 does not place the application in condition for allowance because the finally rejected claims 1-4, 6 and 14 remain unchanged. Finally, the applicant failed to show any good and sufficient reasons why the amendment is necessary and was not earlier presented. The issue of perfection of priority claim was brought up in the non-final Office action of Jul. 18, 2005 by the examiner. It is noted that the applicant did not attempt to perfect his priority claim until after issuance of the final rejection. The certified English translation was not filed until Feb. 14, 2006. The amendment after final filed on Mar. 14, 2006 is not in compliance with 37 CFR 1.116. The examiner's advisory action in refusing to admit the amendment of Mar. 14, 2006 is correct.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's refusal admitting the amendment after final filed Mar. 14, 2006 is proper.

The application is being forwarded to Examiner Wilson of Art Unit 3732 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136 (a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/28/2005

TO SPE OF : ART UNIT 2800(2813)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,791,140

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

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

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

Dependency change okay to claim 16?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The changes on the last line of Certificate of Correction does not apply because claim 16 cannot depend on itself.

Carl Whitehead — SPE

2813 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/28/2005

TO SPE OF : ART UNIT 2800(2813)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,791,140

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

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

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

Dependency change okay to claim 16?

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The change on the last line of Certificate of Correction does not apply because claim 16 cannot depend on itself.

Carl Whitehead — **SPE**

2813 — **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

PPG INDUSTRIES INC
INTELLECTUAL PROPERTY DEPARTMENT
ONE PPG PLACE
PITTSBURGH PA 15272

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DEC 15 2006

OFFICE OF PETITIONS

In re Application of :
Corrigan, et al. :
Application No. 10/393,131 : DECISION ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 1574P2 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 5, 2004. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed November 4, 2004. A Notice of Abandonment was mailed on March 12, 2004.

However, the undersigned has confirmed with the Examiner that the Notice of Allowability's requirement for corrected drawings was made in error. The drawings filed on March 20, 2003 are acceptable.

In view thereof, **the holding of abandonment is withdrawn.**

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-1-08

Paper No.: _____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 7042067 (10/393,164

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 request be granted?

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:

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE

2829

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ExxonMobil Research and Engineering Company
P.O. Box 900
Annandale NJ 08801-0900

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MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of :
WEISSMAN et al :
Application No.: 10/393,167 : DECISION ON PETITION
Filing Date: March 20, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: PEP-0301 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

This application is being referred to the Office of Publications.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FEB 0 9 2006

OFFICE OF PETITIONS

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

In re Application of :
Dannie D. Byrd et al :
Application No. 10/393,176 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 7542.132USD2 :

This is a decision on the petition, filed February 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 July 19, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3654 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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

Paper No. _____

Date : February 9, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Dannie D. Byrd et al
Application No. :10/393,176
Filed :March 20, 2003

The above-identified application has been assigned Patent No. 7,000,866 and an issue date of February 21, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 21, 2006:

"All reference to Patent No. 7,000,866 to Dannie D. Byrd et al of Kentucky for HANDS-FREE PAPER TOWEL DISPENSERS appearing in the Official Gazette of February 21, 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
Tamara Greene, ST-8C13

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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JAN 08 2010

In re Application of	:	
Marcelo Gomes Oliveira	:	
Application No. 10/393,187	:	DECISION ON PETITION
Filed: March 20, 2003	:	
Attorney Docket No. 2002P20732US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 2, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 3, 2009. A Notice of Abandonment was mailed on September 15, 2009.

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

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 Technology Center AU 2195 for appropriate action by the Examiner in the normal course of business on the reply received October 28, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW, YORK NY 10036-8299

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of

Burbank and Brugger

Application No. 10/393,209

Filed: March 20, 2003

Attorney Docket No. 53951-099

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on December 22, 2004. A Notice of Abandonment was mailed on April 20, 2005.

The amendment, filed May 11, 2005, is noted and made of record.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 3700, GAU 3762 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Mark A. Catan
1233 20th Street, N.W., Suite 800
Washington, DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/30/09

TO SPE OF : ART UNIT 2874
SUBJECT : Request for Certificate of Correction for Appl. No.: 10393215
Patent No.: 7044657

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: Corrections do not involve such changes in the patent as would constitute new matter or would require reexamination as they are of a clerical or typographical nature or of minor character.

/UYEN-CHAU N. LE/ — **SPE**

2874 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
NIEN et al. : NOTICE
Application No. 10/393,261 :
Filed: March 21, 2003 :
Attorney Docket No. NIEN3027/EM :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 21, 2004.

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."

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted.** The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that an investigation was performed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McGUIREWOODS LLP
SUITE 1800
1750 TYSONS BOULEVARD
MCLEAN, VA 22102

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Hea-Chun Lee :
Application No. 10/393,270 :
Filed: March 21, 2003 :
Attorney Docket No. 6192.0238.CA :

PETITION

This is a decision on the petition under 37 CFR 1.78, filed August 31, 2004, which is being treated as a petition under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of the following foreign application: Republic of Korea Application No. 10-2001-0018706, filed April 9, 2001 set forth in the concurrently filed amendment.

The petition is DISMISSED AS MOOT.

A petition under 37 CFR 1.55(c) is only applicable to those application filed on or after November 29, 2000.

The instant petition is unnecessary since the claim for priority was timely made in the oath or declaration as required by 37 CFR 1.63(c)(2) and within the time period provided by 37 CFR 1.55(a)(1). Additionally, the foreign application data should be included in the declaration or Application Data Sheet and not in an amendment to the first sentence following the title of the specification. **Note 1.63(c))(2) and 1.76.** Therefore, petitioner need not include the foreign application data in the supplemental amendment since the foreign priority claim for benefits to Korean Application No. 10-2001-0018706, filed April 9, 2001 has been acknowledged, as shown by its inclusion on the filing receipt.

For the above-noted reason, the petition under 37 CFR 1.55(c)) is dismissed as involving a moot issue.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119. The priority papers are accepted as timely filed and have been placed of record in the file.

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

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

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
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Paper No. 6

SCHLUMBERGER CONVEYANCE AND DELIVERY
555 INDUSTRIAL BLVD., MD-1
SUGAR LAND, TX 77478

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NOV 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Zheng, et al. :
Application No. 10/393,285 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 22.1427DIV :

This is a decision on the papers styled, "Petition To Be Accorded Application Filing Date," which has been treated as a petition under 37 CFR 1.53, filed on June 23, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, including the specification.

The application was filed on March 20, 2003 as a divisional of prior application number 09/797,157. However, on June 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the specification was missing.

In response, the instant petition was filed wherein petitioners claim a copy of the specification, originally filed in prior application No. 09/797,157 was filed on March 20, 2003. The petition is accompanied by a copy of the specification (including claims and abstract), declaration, drawings and preliminary amendment, purportedly filed on March 20, 2003, and a copy of petitioner's postcard receipt.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well established and well publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. Unfortunately, petitioners' postcard receipt does not identify a specification as a paper filed on March 20, 2003.

It is noted, however, that the transmittal letter deposited on March 20, 2003, at section 18, incorporated by reference the entire disclosure of prior application No. 09/797,157.

Based on petitioner's representation that the specification, supplied with the petition is a part of the disclosure of prior application number 09/797,157 and that the entire disclosure of application number 09/797,157 was specifically incorporated by reference in the present application on March 20, 2003, it appears that the specification was present in the Office on March 20, 2003, albeit in the file of another application, i.e., application no.09/797,157. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

However, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

Of course, the primary examiner is expected to compare the specification supplied June 23, 2003, to the disclosure of prior application No.09/797,157 in order to verify that the specification is, in fact, part of the disclosure of the prior application.

This application will be returned to OIPE for further processing with a filing date of March 20, 2003, using the specification supplied on June 23, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 28, 2006

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/393290 Patent No.: 6,948,391

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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 2856 **Art Unit**

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JUL 2 8 2005

Technology Center 2100

Mattingly, Stanger & Malur, P.C
1800 Diagonal Road, Suite 370
Alexandria VA 22314

In re Application of: K. SONODA, et al.
Application No. 10/393,293
Filed: March 31, 2003
For: A STORAGE SYSTEM

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

This is a response to the petition filed August 11, 2004 and supplemented on June 22, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

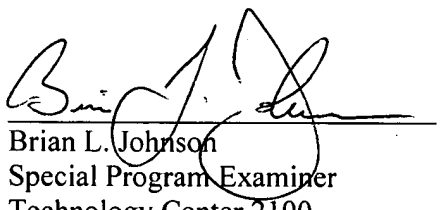
(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition(s) filed August 11, 2004 and June 22, 2005 fails to adequately meet requirements (e) of the criteria set forth above. With respect to requirement (e), applicant must provide a detailed discussion of reference documents (for example, U.S. Published application 2002/0133737 to Novick and U. S. Published Application 2003/0033383 to Elnozahy et al.) since applicant has deemed it as one of the most closely related references. As to U.S. Published application 2002/0133737 to Novick and U. S. Published Application 2003/0033383 to Elnozahy et al., the Petitioner has provided general discussion as to how the method and/or system function. However, the submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the language of **each of the independent claims** are specifically distinguishable and patentable over the references. Petitioner is suggested to review all references cited in the Petition and the Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the reference shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

Petition to Make Special **DISMISSED**.

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

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



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

RP

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SUITE 370
ALEXANDRIA VA 22314

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NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of: SONADA, et al.
Application No. 10/393,293
Filed: March 31, 2003
For: A STORAGE SYSTEM

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

This is a response to the renewed petition filed 23 August 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The renewed petition was filed in response to a dismissal of the original petition filed 11 August 2004 and the supplemental petition filed 22 June 2005.

The original petition and the supplemental petition were treated together and were dismissed for failure to provide a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The renewed petition includes a statement indicating how the independent claims distinguish from the references (the statement appears on page 2 of the renewed petition and is repeated on page 6). As to the discussion of the references, the original and the supplemental petition listed 22 references as being deemed most closely related. The petition decision indicated that neither the original nor the supplemental petition provided a sufficient detailed discussion of these references but rather provided a general discussion of the references. Two references were used as examples of this deficiency in the decision. In the renewed petition, only 6 references are discussed in detail. The petition then states that the "remaining references are of general interest and are discussed in the previously filed petition." For purposes of this petition, the discussion of the 6 references in the renewed petition and the remaining references in the previously filed petition is deemed sufficient. Accordingly, the petition is **GRANTED**. However, it is noted that where applicant feels that only 6 references need to be discussed in detail, then these should be the only references deemed most closely related. References considered of general interest should not be deemed most closely related and should not be listed as such.

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

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

ds

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re Application of	:	
Martin Stillig	:	
Application No. 10/393,295	:	NOTICE
Filed: March 20, 2003	:	
Attorney Docket No. T4342-14499US01	:	

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) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PITTS AND BRITTIAN P C
P O BOX 51295
KNOXVILLE TN 37950-1295

In re Application of
Steven Wallace et al.
Application No. 10/393,300
Filed: March 20, 2003
Attorney Docket No. 28079.00

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed May 8, 2008 under 37 CFR 1.181.

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

A Final Office Action was mailed February 6, 2006 setting a three month period for response. A response was filed May 26, 2006 with a one month extension of time, however, by way of Advisory Action, petitioner was advised that the response did not place the application in condition for allowance. No additional response having been filed by June 6, 2006, the application became abandoned June 9, 2006. Accordingly, a Notice of Abandonment was mailed on October 4, 2006.

Petitioners argue that a Request For Continued Examination (RCE) was filed on July 6, 2006 by way of EFS with an extension of time request and provides a copy of the response said to have been filed and a copy of the EFS Acknowledgment Receipt, as proof of the timely filed response.

A search of the application file and the USPTO records reveals that in fact, an RCE and extension of time, extending the response date to July 6, 2006 was filed on July 6, 2007. The RCE requested that the amendment filed May 26, 2006 be used as the submission required under 37 CFR 1.114. In view thereof, the response was timely and the Notice of Abandonment mailed October 4, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. However, the proper extension of time fees will be charged to deposit account no. 16-1910 as per the authorization filed July 6, 2006.

This matter is being referred to Technology Center 2884 for processing the RCE filed July 6, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LANGLOTZ PATENT & TRADEMARK WORKS INC
PO BOX 96503 #37585
WASHINGTON DC 20090-6503

In re Patent No. 6,895,865 :
Issue Date: May 24, 2005 :
Application No. 10393,315 : DECISION ON PETITION
Filed: March 20, 2003 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed August 7, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued May 24, 2005. Accordingly, the first maintenance fee could have been paid during the period from May 24, 2008 through November 24, 2008 without surcharge, or with a late payment surcharge during the period from November 25, 2008 through May 24, 2009. No maintenance fee having been received, the patent expired on May 25, 2009.

Since the instant petition was filed 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 in this case is accepted

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

Receipt of the $1,640 petition surcharge and the $490 maintenance fee is acknowledged.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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JAN 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Donald E. Godshaw, et al. :
Application No. 10/393,329 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 04286.00112 :

This is a decision on the petition under 37 CFR §1.78(a)(3), filed October 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of a prior-filed nonprovisional application set forth in the concurrently filed amendment and substitute Application Data Sheet (ADS).

The petition is **DISMISSED AS MOOT**.

While the relationship to the prior-filed nonprovisional application was not correct in the ADS submitted on filing, the Office, nonetheless, noted the claim for priority of nonprovisional Application No. 09/968,360, as shown by its inclusion on the filing receipt. In fact, the relationship of the prior-filed nonprovisional application was included in the specification submitted on filing.

No petition under 37 CFR 1.78(a)(3) and surcharge is required when applicant is changing the relationship in a benefit claim from "continuation" (or "divisional") to "continuation-in-part" or from "continuation-in-part" to "continuation" (or "divisional"), or from "continuation" to "divisional" because the Office was able to schedule the application for publication with the relationship given within the time period set forth in 37 CFR §§1.78(a)(2(ii) and 1.78(a)(5)(ii).

In view of the above, the $1370 fee submitted pursuant to 37 CFR 1.17(t) is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Sherry Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1751 for appropriate action on the response to the non-final Office action mailed June 14, 2004, including consideration of the claim for benefit under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application.

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

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

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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Donald Godshaw et al :
Application No. 10/393,329 :
Filed: March 20, 2003 :
Attorney Docket No. 04286.00112

ON PETITION

This is a decision on the petition, filed October 7, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3727 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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Sergio Lancia :
Application No. 10/393,331 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. CU-3189 RJS :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed September 30, 2004. A Notice of Abandonment was mailed on May 17, 2005. The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 1733, for further processing of the request for continued examination under 37 CFR 1.114 filed May 11, 2005.

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

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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

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OCT 19 2004

OFFICE OF PETITIONS

Applicant: Fillatti et al.
Appl. No.: 10/393,347
Filing Date: March 21, 2003
Title: NUCLEIC ACID CONSTRUCTS AND METHODS FOR PRODUCING ALTERED SEED OIL COMPOSITIONS
Attorney Docket No.: 16518.009
Pub. No.: US 2004/0006792 A1
Pub. Date: January 8, 2004

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

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Mail Date: 04/20/2010

Applicant	: Joanne J. Fillatti	: DECISION ON REQUEST FOR
Patent Number	: 7601888	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/393,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **932** 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 THE DIRECTOR
TC 3600

Nixon Peabody, LLP
401 9th Street, NW
Suite 900
Washington, DC 20004-2128

In re application of : **DECISION ON PETITION**
Martin Frank De Waal : **TO MAKE SPECIAL**
Application No. 10/393,357 : **(INFRINGEMENT)**
Filed: March 21, 2003 :
For: ROOF FRAME OF AN OPENABLE MOTOR VEHICLE ROOF

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 5, 2003 to make the above-identified application special.

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

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 5, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 6/3/04

SPE Walker

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/393,361

Paper No.: _____

DATE : 8/1/06

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 6939471

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

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

Lamonte M. Newsome

Thank You For Your Assistance

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

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

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

Comments:

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Steven P. Griffin
SPE

1731
Art Unit

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Paper No. 5

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

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In re Application of :
Kumar et al. :
Application No. 10/393,366 :
Filed: March 21, 2003 :
Attorney Docket No. :
056859-0176 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 31, 2003, 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 Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed May 14, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 15, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

The oath/declaration has been entered and made of record.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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26 WEST 61ST STREET
NEW YORK NY 10023

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AUG 18 2008

In re Application of :
Neeraj Mahendroo et al. :
Application No. 10/393,373 : DECISION ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. U014460-0 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 3, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 4, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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NEW YORK NY 10023

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MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Pratap et al.	:	DECISION ON
Application No. 10/393,408	:	PETITION
Filed: March 20, 2003	:	
Attorney Docket No. U014467-6	:	

This is in response to the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b)," filed March 29, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed September 26, 2005. This Office action set a shortened statutory period for reply of three (3) months from the mailing date of the action. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on December 26, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The petition included the required reply; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 1618 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the reply submitted on petition filed March 29, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Beresford et al.	:	
Application Number: 10/393411	:	DECISION ON PETITION
Filing Date: 03/20/2003	:	
Attorney Docket Number:	:	
0492611-0476 (MIT 9700)	:	

This is a decision on the petition filed on December 20, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 5, 2007, for failure to timely file a proper reply to the final Office action mailed on May 4, 2007, which set a three (3) month shortened statutory period for reply. On November 5, 2007, an amendment after final

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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)).

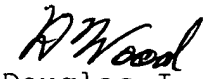
rejection and a three (3) month extension of time was filed.[2] On December 10, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on November 5, 2007, failed to place the application in condition for allowance. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed a Request for Continued Examination (RCE) and requested the previously submitted amendment be considered as the submission required under 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being forwarded to Technology Center 1633 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

[2] Since November 4, 2007, fell on a Sunday, the reply filed on Monday, November 5, 2007, was timely filed.

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

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OFFICE OF PETITIONS

In re Application of :
Berthold Johannes Theodorus Dietrich :
Application No. 10/393,431 : DECISION GRANTING PETITION
Filed: March 20, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. U 014482-0 :

This is a decision on the petition, filed August 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 10, 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]

A review of the file record for this case discloses that a Notice to File Missing Parts of Nonprovisional Application was mailed on May 22, 2003, requiring, *inter alia*, the submission of an executed oath or declaration to avoid the abandonment of the application. The record fails to disclose that an executed declaration was received within the time period provided by the Notice of May 22, 2003. In response to an apparent request by the Office, an executed oath or declaration was received on August 16, 2005. The cover letter accompanying the submission of the declaration states that this is a copy of the

[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).*

declaration originally filed on May 30, 2003. Since the Office record for this matter fails to disclose receipt of the declaration within the time period provided therefor, petitioner must submit evidence to establish the timely filing thereof. If petitioner cannot provide this evidence, petitioner may wish to consider filing a petition to revive under 37 CFR 1.137.

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

This matter is being referred to Technology Center AU 3643.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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July 05, 2006

LAW OFFICES
FREILICH, HORNBAKER & ROSEN
PROFESSIONAL CORPORATION
10960 WILSHIRE BOULEVARD, SUITE 1220
LOS ANGELES CA 90024-3702

Patent No.: 7057724 B1
Application No.: 10/393,459
Inventor(s): MEAD, DONALD C.
Issued: June 06, 2006
Title: **PARTICULATE INFO TO FIELD UNITS**

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 112**

lmn

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Paper No.

BP America Inc.
Docket Clerk
Mail Code 5 East
4101 Winfield Road
Warrenville IL 60555

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FEB 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Reyneke et al.	:	DECISION ON PETITION
Application No. 10/393,460	:	
Filed: March 20, 2003	:	
Attorney Docket No. 37403	:	

This is a decision on the PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed November 7, 2006.

The petition under § 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to file a timely and proper response to the non-final rejection mailed March 22, 2006. This Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply having been received and no extension of time obtained, the application became abandoned on June 23, 2006. A courtesy Notice of Abandonment was mailed on October 10, 2006.

On petition, petitioner asserts that the failure to respond was unavoidable because the Office action was never received.

Petitioner attributes this non-receipt to a failure in the forwarding of the Office action. Petitioner details many changes in the address of the company address identified as the correspondence address of record on filing of the application. However, petitioner does not set forth having filed a change of correspondence address with the Patent Office.

Consideration of Petition under § 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 as set forth in § 1.17(l); (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section. The instant petition does not satisfy requirements (1) and (3).

The petition includes the required reply in the form of an amendment and payment of the petition fee. However, petitioner's arguments have been considered but not found persuasive to show that the delay in responding to the Office action mailed March 22, 2006, should be considered unavoidable within the meaning of § 1.137(a).

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.

As stated in MPEP 711.03(c)IIIC2

[W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. 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, there is no evidence submitted that a change of correspondence address was ever filed with the Office. This is the error that led to the delay. A prudent and careful person in relation to their most important business would have filed a timely change of correspondence address and would not have relied on the forwarding of mail. The filing of a change

of correspondence address is not burdensome. While the reliance on forwarding of time-sensitive communications, increases the likelihood of non-receipt and even if received, shortens the time available (at least by the number of days in the forwarding period) for applicant to prepare a response to the Office action.

In view thereof, it is concluded that petitioner has not made an adequate showing of unavoidable delay, and the petition cannot be granted under § 1.137(a).

Petitioner is not precluded from requesting consideration under § 1.137(b) on the basis of unintentional delay. 37 CFR 1.137(b) provides that:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

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

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

BP America Inc.
Docket Clerk
Mail Code 5 East
4101 Winfield Road
Warrenville IL 60555

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Reyneke et al.	:	DECISION ON PETITION
Application No. 10/393,460	:	and
Filed: March 20, 2003	:	**NOTICE OF NONACCEPTANCE**
Attorney Docket No. 37403	:	**OF CHANGE OF ADDRESS**

This is a decision on the PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 19, 2007.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the non-final rejection mailed March 22, 2006. A courtesy Notice of Abandonment was mailed on October 10, 2006. By decision mailed February 8, 2007, the initial PETITION FOR REVIVAL OF APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed November 7, 2006 was dismissed.

On instant petition, petitioner requests revival based on unintentional delay. The petition includes payment of the petition fee required under 37 CFR 1.17(m), the required reply in the form of an amendment and the required statement of unintentional delay. In addition, the petition includes a statement of the facts and circumstances that form the basis of petitioner's statement that the delay was unintentional. No terminal disclaimer is required.

Accompanying the petition was a change of correspondence address signed by attorney David Yusko as attorney or agent of record. However, attorney Yusko is not an attorney or agent of record[1]. Accordingly, the change of correspondence address will not be entered. A courtesy copy of this decision is being mailed to the address on the petition. However, all future correspondence will be mailed to the current address of record until such time as a proper change of correspondence address is filed.

Technology Center AU 1764 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 19, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: David P. Yusko
Central Park of Lisle
4225 Naperville Rd., S/600
Lisle, Il 60532

[1] A person acting in a representative capacity may not sign (A) a power of attorney (37 CFR 1.32(b)(4)), … (C) a change of correspondence address (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application - 37 CFR 1.33(a)), … See MPEP 402

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ALAN H. THOMPSON
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808, L-703
LIVERMORE, CA 94551

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OFFICE OF PETITIONS

In re Application of :
Glenn A. Fox, et al. :
Application No. 10/393,492 : ON PETITION
Filed: March 18, 2003 :
Attorney Docket No. IL-10180 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 29, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 30, 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

A review of the record indicates that the petitioner was inadvertently charged $1370 for the petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b). The correct amount for the petition fee was $685 for a small entity. Accordingly, the additional $685 charged, will be credited back to petitioner's deposit account.

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

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

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

Retta Williams

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

THOMAS J PERKOWSKI ESQ PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD CT 06902

In re Application of :
Thomas J. Perkowski : DECISION GRANTING PETITION
Application No. 10/393,504 : AND WITHDRAWING THE
Filed: March 19, 2003 : HOLDING OF ABANDONMENT
Attorney Docket No. 100-004USANC0 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 13, 2006.

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

The holding of abandonment is **WITHDRAWN**.

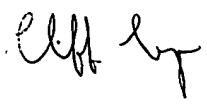
The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed May 15, 2006. This Office action set a shortened statutory period of three (3) months. A Notice of Abandonment was mailed on December 5, 2006.

A review of the application file reveals the presence of an amendment, filed November 20, 2006. The amendment was made timely by including a Certificate of Mailing under 37 CFR 1.8 dated November 14, 2006, and by including a three month extension of time. Furthermore, Office records indicate that the fee for the three month extension of time was received on November 20, 2006, and was processed on November 21, 2006.

In view of the above, the holding of abandonment is withdrawn.

The matter is being forwarded to Group Art Unit 2164 for consideration of the amendment filed November 20, 2006 (Certificate of Mailing dated November 14, 2006).

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



Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **October 18,2007**

TO SPE OF : ART UNIT **1635**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/393,507** Patent No.: **7247288 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: Do not make the requested correction to Column 1 line 9. "60/373,494" is the correct application number. This number was introduced by Applicant's amendment of 8/13/03. The subject matter of 60/374 494 is unrelated to the instant application.

[signature] **SPE**

1635 **Art Unit**

UNITED STATES
PATENT AND
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/393,526 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
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John L. Welsh
Welsh & Flaxman
2000 Duke Street, Suite 100
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Moser et al. :
Application No. 10/393,547 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No. MOB005 :

This is a decision on the petition under 37 CFR §1.137(a), filed August 18, 2005. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application became abandoned for failure to timely submit a response to the Final Office Action mailed August 3, 2004. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on November 4, 2004. A Notice of Abandonment was mailed on February 25, 2005.

Petitioner asserts that the Final Office Action mailed on August 3, 2004 was never received. A review of the record indicates the Final Office Action was mailed to an incorrect correspondence address based upon a clerical error which resulted in the incorrect entry of a change of correspondence address. Thus the Office Action was improperly mailed.

This application is being forwarded to Art Unit 3636 for re-mailing of the Final Office Action to the correct correspondence address of record.

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

Doc Code COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/25/08

Paper No.: —

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/393551 Patent No: 6980952 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: _____

Susan Berman
SPE

1796
Art Unit

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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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C. RICHARD EBY
WOOD HERRON & EVANS LLP
2700 CAREW TOWER
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

In re Application of :
Owen J. Gill et al :
Application No. 10/393,572 :
Filed: March 21, 2003 :
Attorney Docket No. DEME-24

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

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Paper No.

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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JAN 20 2006

OFFICE OF PETITIONS

In re Patent No. 6,918,762	:	DECISION ON REQUEST
Owen J. Gill et al.	:	FOR RECONSIDERATION OF
Issue Date: July 19, 2005	:	PATENT TERM ADJUSTMENT
Application No. 10/393,572	:	and
Filed: March 21, 2003	:	NOTICE OF INTENT TO
Attorney Docket No. DEME-24	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed July 11, 2005. Patentees request that the patent term adjustment indicated in the Issue Notification (and in the patent) be corrected from eighty-seven (87) days to one hundred sixty-two (162) days.

The request for reconsideration 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 **one hundred sixty-one (161)** days.

On July 19, 2005, the application matured into U.S. Patent No. 6,918,762, with a revised patent term adjustment of 87 days. On July 11, 2005, in response to the Patent Term Adjustment indicated on the Issue Notification, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 162 days. Patentees dispute the reduction of 92 days associated with the filing of a Supplemental Declaration on April 19, 2005. Patentees argue the period of reduction runs from April 19, 2005 to May 6, 2005, the date of the Interview Summary in which the Supplemental Declaration was acknowledged.

Petitioner's argument is well-taken. 37 CFR 1.704(c)(10) provides that submission of an amendment or other paper after a

notice of allowance has been given or mailed will reduce the period of adjustment by the number of days beginning on the date the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper. A review of the application record confirms that the Supplemental Declaration was filed on April 19, 2005 and an interview summary was mailed in response on May 6, 2005. Thus, it is concluded that the reduction of 92 days is incorrect and should be corrected to eighteen (18) days.

Section 2731 of the MPEP explains that when a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. Patentees failed to include the day of April 19, 2005, the day the paper was filed, in their calculation which wrongly lead them to a reduction of seventeen (17) days with respect to the submission of the Supplemental Declaration.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred sixty-one (161) days.

The Office will issue 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 to **ONE HUNDRED SIXTY-ONE (161)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been paid. No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of DRAFT Certificate of Correction

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MORGAN, LEWIS & BOCKIUS, LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

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OFFICE OF PETITIONS

In re Application of :
John Armer, et. al. :
Application No. 10/393,586 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 7295/41-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 9, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowability mailed October 19, 2005. A Notice of Abandonment was mailed on March 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one (1) sheet of replacement Drawings containing Figures 3 & 4; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

Receipt is acknowledged of $700 for payment of the issue fee and $300 for payment of the publication fee submitted on January 23, 2006, with a Certificate of Mailing dated January 19, 2006.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 6,791,761 :
Issue Date: September 14, 2004 :
Application No. 10/393,593 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 17979-027002/99059 :
PUS :

This is a decision on the petition filed September 21, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. 8

McDONNELL, BOEHNEN, HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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JUN 28 2004

OFFICE OF PETITIONS

In re Application of :
Dow et al. :
Application No. 10/393,599 : DECISION ON PETITION
Filed: March 20, 2003 :
For: System and Method for :
Navigation of Indexed Video Content:

This is in response to the petition under 37 CFR 1.47(a), filed December 11, 2003.

This is also a decision, *sua sponte*, vacating the Notice of Abandonment mailed on June 7, 2004, for the above-identified application.

As to the Withdrawal of the Holding of Abandonment:

This application was held abandoned for failure to timely respond to the Notice to Filing Missing Parts of Nonprovisional Application mailed on May 13, 2003. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on June 7, 2004.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated. The holding of abandonment is withdrawn and the application is restored to pending status in view of the fact that a response in the form of a petition under 37 CFR 1.47(a) and a five-month extension of time were timely filed and received in the United States Patent and Trademark Office on December 11, 2003. Consequently, there is no abandonment in fact. Any inconvenience caused to applicants is regretted.

As to the Petition under 37 CFR 1.47(a):

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Sean M. Sullivan establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign the declarations. Accordingly, the petition under 37 CFR 1.47(a) is **granted**.

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

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

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

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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300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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MAY 03 2010

OFFICE OF PETITIONS

In re Application of :
Dow et al. :
Application No. 10/393,599 :
Filed: March 20, 2003 :
Attorney Docket No. 03-518 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 17, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected to nine hundred twenty (920) days.

The application for patent term adjustment is **DISMISSED**.

On September 24, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 692 days. On December 17, 2009, applicants timely submitted the instant application for patent term adjustment[1].

Specifically, applicants indicate:

> Applicants submit this Application for Patent Term Adjustment because after the Final Rejection mailed on March 21, 2008, the Examiner later withdrew that rejection and issued a new Non-Final Rejection on March 6, 2009. Therefore, Applicants are entitled to the delay in the issuance of a rejection in excess of four months

[1] The Office records show that the issue fee was also received on December 17, 2009.

> from their previously filed response, according to 35 U.S.C. § 154(b)(1)(A)(ii), which is equal to 228 days (from July 21, 2008 until March 6, 2009).

Petition, 12/17/09, p. 2.

The Office has considered applicants' argument, but finds it without merit. Pursuant to 37 CFR 1.702(a),

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

On March 21, 2008, the examiner responded to applicants' amendment after non-final Office action filed December 27, 2007. As this was within four months of the filing date of the reply, no period of adjustment for Office delay was entered. A review of the record confirms that no period of adjustment for Office delay was warranted.

The subsequent mailing of a communication by the examiner withdrawing the finality of this action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on March 21, 2008. Moreover, the Office notes that an examiner does not have the authority to vacate or rescind an Office action. Unless vacated by the Technology Center Director, the action originally mailed by the examiner on March 21, 2008, will be used for purposes of calculating patent term adjustment.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance will remain 692 days.

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays

under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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RICHARD ESTEY PETERSON
1905 PALMETTO AVENUE
SUITE D
PACIFICA, CA 94044

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OFFICE OF PETITIONS

In re Application of
Christopher M. McGregor et al.
Application No. 10/393,600
Filed: March 20, 2003
Attorney Docket No.: **QT0085PA**

ON PETITION

This is a decision on the petition filed April 23, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 22, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been timely requested, this application became abandoned December 26, 2006. Accordingly, a Notice of Abandonment was mailed on April 10, 2007.

This matter is being referred to Technology Center 2618 for appropriate action on the response filed March 22, 2007.[2]

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

[2] Response filed March 22, 2007 with extension of time request although with insufficient funds.

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701 E. Joppa Road, TW-199
Towson MD 21286

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OFFICE OF PETITIONS

In re Application of
Meredith et al.
Application No.10/393,662
Filed: March 21, 2003
Title of Invention: Sliding Saw

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 2, 2007.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of May 24, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on July 14, 2006. An Advisory Action stating that the amendment did not place the application in condition for allowance was mailed on June 8, 2007. An untimely Notice of Appeal and Request for Pre Appeal Brief Conference were filed on June 12, 2007. Accordingly, this application became abandoned on August 25, 2006. A Notice of Abandonment was mailed on June 21, 2007.

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

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request for Pre-Appeal Brief Review.

Pursuant to petitioner's request, deposit account 06-1130 will be refunded the $500.00 Notice of Appeal fee submitted on June 12, 2007 which was untimely.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
POLITO, Alan J. et al. :
Application No. 10/393,670 : DECISION ON PETITION
Filed: March 19, 2003 : TO WITHDRAW
Attorney Docket No. **RELA-005/02US 307057-2020** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 28, 2008.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the applicant of the patent application on July 29, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GLOBAL PATENT GROUP - RLA**
MR. DENNIS A. BENNETT
GLOBAL PATENT GROUP, LLC
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS MO 63138

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JEFFRY S. MANN
MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO, CA 94105

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Polito et al.	:	DECISION ON PETITION
Application No. 10/393,670	:	TO WITHDRAW
Filed: March 19, 2003	:	FROM RECORD
Attorney Docket No. RLA0005-201C1-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 June 2, 2006.

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

A review of the file record indicates that on June 28, 2006 the power of attorney to Morgan, Lewis & Bockius LLP (SF) 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: Global Patent Group – RLA
Mr. Dennis A. Bennett
Global Patent Group, LLC
10411 Clayton Road, Suite 304
St. Louis MO 63138

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COMMISSIONER FOR PATENTS
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MAY -5 2004

In re Application of	:	
Rory W. Fuerst et al.	:	
Serial No. 10/393,675	:	DECISION ON PETITION
Filed: March 19, 2003	:	TO MAKE SPECIAL
For: TOE PROTECTION SANDAL	:	

Applicant's petition, filed March 19, 2003, seeks to have this application made special pursuant to the Accelerated Examination 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(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

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SUITE 400
PORTLAND OR 97204

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Kyrt V. Nay, et al. :
Application No. 10/393,676 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 6647-45 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 23, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of issue fee and publication fee; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee, which was submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PATENT APPLICATION
Docket No. 6647-045
Client Ref. No. IDR-625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Kyrt V. NAY et al.		
Application No.	10/393,676	Examiner:	David Y. ENG
Filed:	March 20, 2003	Art Unit:	2155
Confirmation No.:	1234		
For:	COMPUTING ENVIRONMENT FAILOVER IN A BRANCH OFFICE ENVIRONMENT		

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

1. Petition fee:

☐ Small entity fee $750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☒ Large entity fee $1,500 (37 CRF 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office Action in the form of _____ (identify type of reply);
☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee of $ 1400
☐ has been paid previously on _____.
☒ is enclosed herewith

3. Terminal Disclaimer with disclaimer fee
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $65 for a small entity or $130 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.

5. Fee Payment:

☒ Payment of fees is made via electronic filing system authorizing credit card payments for the Petition Fee.

☒ In the event of computer malfunction, Applicant requests that any fees be charged to deposit account number 13-1703.

☒ Please charge any deficiency or overpayment to deposit account number 13-1703.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

Ariel S. Rogson
Reg. No. 43054

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613
Customer No. 45842

PART B - FEE(S) TRANSMITTAL

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

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

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

45842 7590 04/23/2007

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210 SW MORRISON STREET
SUITE 400
PORTLAND, OR 97204

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

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

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/393,676	03/20/2003	Kyrt V. Nay	6647-45	1234

TITLE OF INVENTION: COMPUTING ENVIRONMENT FAILOVER IN A BRANCH OFFICE ENVIRONMENT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$0	$0	$1400	07/23/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
ENG, DAVID Y	2155	709-229000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 MARGER, JOHNSON, &
2 McCOLLOM, P.C.
3

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

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

(A) NAME OF ASSIGNEE: NOVELL, INC.
(B) RESIDENCE: (CITY and STATE OR COUNTRY): PROVO, UTAH

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

4a. The following fee(s) are submitted:
☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☐ A check is enclosed.
☒ Payment by credit card. ~~Form PTO-2038 attached.~~ Thru EFS Web.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 13-1703 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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

Authorized Signature _____ Date July 24, 2007

Typed or printed name Ariel S. Rogson Registration No. 43,054

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

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

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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.
10/393,676	03/20/2003	Kyrt V. Nay	6647-45	1234

45842 7590 07/30/2007

MARGER JOHNSON & MCCOLLOM, P.C. - NOVELL
210 SW MORRISON STREET
SUITE 400
PORTLAND, OR 97204

EXAMINER	
ENG, DAVID Y	
ART UNIT	**PAPER NUMBER**
2155	
MAIL DATE	**DELIVERY MODE**
07/30/2007	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/393,676	Kyrt V. Nay	
	Examiner	Art Unit	
	ENG. DAVID Y	2155	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☒ The issue fee and publication fee, if applicable, was received on *07/24/07* (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/AG/

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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John M. Vasuta, Chief I.P. Counsel
Bridgestone Americas Holding, Inc.
1200 Firestone Parkway
Akron OH 44317-0001

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JUN 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Peng :
Application No. 10/393,692 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. P99043US1A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed December 20, 2005. Accordingly, this application became abandoned on March 21, 2006. No Notice of Abandonment has been mailed.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the December 20, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

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

---

[1] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: MICHAEL R. HUBER
BFS DIVERSIFIED PRODUCTS, LLC
310 EAST 96TH STREET
INDIANAPOLIS, IN 46240

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Sheldon Kasower :
Application No.: 10/393,699 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No.: 20168.0006US01 :

This is a decision on the petition, filed June 24, 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 June 5, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3693 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 4

RUSSELL CARTER GACHE
SIROTE & PERMUTT, P.C.
PO BOX 55727
BIRMINGHAM, AL 35255-5727

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
James Larry Alford et al :
Application No. 10/393,731. : NOTICE
Filed: March 21, 2003 :
Attorney Docket No. 044568-00004 :
(Inv-1) :

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 3662.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

UR

Mailed
JUN 3 2003

Paper NO. 3

In re Application of :
Shannon Roescher :
Serial Number: 10/393,742 : DECISION ON
Filed: March 21, 2003 : PETITION UNDER
For: COMBINATION GRILL AND FOOD SMOKER : M.P.E.P. 708.02,II

This is in response to the petition filed, March 21, 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.**

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

Myers & Kaplan
Intellectual Property Law, L.L.C.
1827 Powers Ferry Road
Building 3, Suite 200
Atlanta, GA 30339

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/18/04

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction on Patent No.: 6752632 B1

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Title clarification [illegible] 7/28/06

10/393744 ROSS GUSHI
PRIMARY EXAMINER

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

P. Austin Bradley
SPE

2833
Art Unit

PTOL-306 (REV. 7/03)

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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DEC 29 2009

OFFICE OF PETITIONS

In re Application of :
Gelotte et al. :
Application No. 10/393,755 : DECISION ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. MCP-325 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 12, 2007, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 13, 2007. *See* MPEP 1215.04. A Notice of Abandonment was mailed April 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, the above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

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

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The file is now being forwarded to Technology Center AU 1617 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Paper No. 7

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

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of
Masataka Katsuma et al.
Application No. 10/393,766
Filed: March 17, 2003
Attorney Docket No. 019941-001610US
Title: NOVEL DRY POWDER INHALATION FOR LUNG-DELIVERY AND MANUFACTURING METHOD THEREOF

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. §1.10(d)," received on August 25, 2003, requesting that application number 10/393,766 be accorded a filing date of March 17, 2003.

On March 17, 2003, the above-identified application was received in the Office. On May 19, 2003, the Office of Initial Patent Examination mailed a Filing Receipt, indicating that the application had been accorded a filing date of March 19, 2003.

In response, on August 25, 2003, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EL704617659US. Applicants request that application be accorded a filing date of March 17, 2003.

A check of the Office's Express Mail Finder Database was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) shows

that the package was accepted on March 17, 2003. A copy of the later search result is enclosed.

Upon review of the record, the application received a filing date of March 19, 2003. However, the evidence is convincing that the application papers were filed on March 17, 2003, and the incorrect date was subsequently assigned to the application. Therefore, the application was entitled to a filing date of March 17, 2003.

Accordingly, the petition is **GRANTED.**

On September 8, 2003, Petitioner submitted a statement under 37 C.F.R. §3.73(b). This statement has not been entered, as it does not establish the purported assignee's ownership of the application to the satisfaction of the Commissioner. Petitioner has not recorded the assignment in the Office, provided a copy of the assignment along with the statement, or provided a chain of title from the inventor to the purported assignee[1].

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 17, 2003, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

Encl. Copy of USPS Express Mail Printout (Paper No. 5)

1 See 37 C.F.R. §§3.73(b)(1)(i)-(ii), as well as 1.A on the form itself (petitioner checked the box indicating that the assignment has been recorded in the office, but no reel and frame number has been provided, and the assignment does not appear on the Office's computer database).

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Paper No. 4

BUCKLEY, MASCHOFF,
TALWALKAR & ALLISON LLC
FIVE ELM STREET
NEW CANAAN, CT 06840

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JAN 1 4 2004

OFFICE OF PETITIONS

In re Application of:	:	
Buck Brown, Mike Kenney, Joel Keaton,	:	
Michael Haugh, Phil Rogers,	:	
Dave Schrimscher and Don Wilson	:	
Application No. 10/393,778	:	
Filed: March 21, 2003	:	DECISION GRANTING
Title of Invention: METHOD AND	:	STATUS UNDER
APPARARUS FOR MANAGING STORAGE UNIT	:	37 CFR 1.47
RENTAL INFORMATION	:	

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed November 7, 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 inventors, Phil Rogers and Don Wilson, refuse 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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Paper No.

KENNETH D' ALLESANDRO
SIERRA PATENT GROUP, LTD.
PO BOX 6149
STATELINE, NV 89449

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NOV 18 2004

OFFICE OF PETITIONS

In re Application of :
Dawe et al. :
Application No. 10/393,785 :
Filed: July 18, 2003 :
Attorney Docket No.: :
DAWE-001 :

DECISION ON PETITION

This is a decision on the Petition to Correct Filing Date, filed October 8, 2004. The petition is properly treated under 37 CFR 1.53(e).

Background

The application was deposited on March 24, 2003. A review of the application papers deposited on March 24, 2003, reveals that the following was deposited: 1 page specification; 1 claim; an abstract, and an oath, along with the application transmittal form. No drawings were filed with the application.

On May 20, 2003, in response to the correspondence deposited March 24, 2003, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers (hereinafter ("Notice"), stating that the application had been accorded a filing date, and requiring a substitute specification in compliance with 37 CDR 1.52, 1.121(b)(3) and 1.125.

Applicant responded to the Notice on July 18, 2003, by filing 4 pages of specification; 3 pages of claims (numbering 1 - 19); a 1 page abstract, and 1 sheet of drawings containing 2 drawing Figures. The Transmittal Letter filed with the response to the Notice on July 18, 2003, with the aforementioned application, identifies the application as a response to the Notice, and identifies the specification as a substitute specification.

Upon receipt of the application papers filed with the response to the Notice, the Office accorded the application papers a filing date of July 18, 2003, the date the papers were received in the Office.

The original application papers

A review of the claim filed on March 23, 2003, reveals that the claim was not a process, method or composition claim of the type where a drawing is usually considered unnecessary for an understanding of the invention[1]. The Manual for Patent Examining Procedure provides:

> Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence). It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.
>
> If a nonprovisional application does not have at least one claim directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date... and is filed without drawings, OIPE will mail a "Notice of Incomplete Application" indicating that the application lacks drawings and that 35 U.S.C. 113 (first sentence) requires a drawing where necessary for the understanding of the subject matter sought to be patented.

A review of the claim deposited with the application papers on March 24, 2003, reveals that the application should not have been accorded a filing date. The claim is not directed to a process, method or composition[2]. The Office erred in mailing the Notice, and the Notice is hereby withdrawn.

The Instant Petition

Applicant files the instant Petition and requests that the application be accorded the filing date of March 24, 2003,

---

[1] The claim deposited with the application on March 24, 2003, read: "We claim the birch wood cigarette substitute and stop smoking aid, 'Nicosticks' as our invention."

[2] Nor does the claim comport with "[o]ther situations in which drawings are usually not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence)...." Those other situations are for coated articles or products; articles made from a particular material or composition; and laminated structures, or articles, apparatus, or systems where sole distinguishing feature is presence of a particular material.

because the original application papers filed on March 24, 2003, were accorded a filing date.

Applicant is advised that the correspondence filed on March 24, 2003, was not entitled to a filing date. The filing date accorded the application is the date that the application met the requirements for receiving a filing date, July 18, 2003.

Altenrative Venue

As stated *infra*, the application as filed on March 24, 2003, was not entitled to a filing date. The MPEP provides that

> If a nonprovisional application does not have at least one claim directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing Date ..., OIPE will mail a 'Notice of Incomplete Application' indicating that the application lacks drawings and that 35 U.S.C. 113 (first sentence) requires a drawing where necessary for the understanding of the subject matter sought to be patented.

The mailing of a Notice of Incomplete Application provides an Applicant with the following three options:

> Applicant may file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(h), asserting that (1) the drawing(s) at issue was submitted, or (2) the drawing(s) is not necessary under 35 U.S.C. 113 (first sentence) for a filing date. The petition must be accompanied by sufficient evidence to establish applicant's entitlement to the requested filing date (e.g., a date-stamped postcard receipt (MPEP § 503) to establish prior receipt in the USPTO of the drawing(s) at issue). Alternatively, applicant may submit drawing(s) accompanied by an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the drawing(s) being submitted and accept the date of such submission as the application filing date.

Applicant may petition this Office to accept the application papers as filed on March 24, 2003, and retain the March 24, 2003 filing date using the application papers filed on that date. The petition must be accompanied by sufficient evidence to establish applicant's entitlement to the requested filing date.

For the above noted reasons, the petition is dismissed without prejudice.

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded[3].

The application will be accorded the filing date of July 18, 2003, using the application papers filed on that date.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

[3] Applicant deposited papers on July 18, 2003, that were entitled to and were accorded a filing date.

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

Eric U. Carraway
P.O. Box 31382
Raleigh, NC 27622

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Eric U. Carraway :
Application No. 10/393,786 : ON PETITION
Filed: March 24, 2003 :
Title of Invention: SURE-CUT :

This is a decision in response to the correspondence filed March 23, 2006, requesting this Office "restore" the above-identified application. The petition is properly treated under 37 CFR 1.181, to withdraw the holding of abandonment.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.181", 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 November 9, 2004. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed an amendment in response to the Office action on November 29, 2004; however, the amendment was non-compliant. Applicant was so notified in a Notice of Noncompliant Amendment mailed January 6, 2005. Applicant filed a second amendment in

response to the Notice of Noncompliant Amendment on January 24, 2005; however, the second amendment was also noncompliant.

Applicant was again notified in a Notice of Noncompliant Amendment mailed June 2, 2005.

This Office received an amendment in response to the second, June 2, 2005 Notice of Noncompliant Amendment on July 11, 2005.

A Notice of Abandonment was mailed March 7, 2006. The Notice of Abandonment incorrectly stated that the application became abandoned for failing to reply to the non-final office action mailed September 22, 2004.

Abandonment of the application

Applicant is advised that the non-final office action mailed November 9, 2004 set a three (3) month period for reply. Applicant failed to file a complete and proper reply to the non-final office action. The replies/amendments filed November 29, 2004 and January 24, 2005 were not in compliance with 37 CFR 1.121. Applicant was so notified on each occasion, and given a period of one (1) month from the mail date of the Notice to reply. Applicant replied to the June 2, 2005 Notice of Noncompliant Amendment on July 11, 2005, which was after the period for reply had expired. While it is noted that the date appearing on the correspondence is July 7, 2005, the application became abandoned on July 3, 2005. Applicant is advised that Office rules are very explicit regarding the date correspondence is deemed to have been filed in this Office. See 37 CFR §§ 1.6 and 1.8.

Accordingly, the application became abandoned July 3, 2004, for failing to reply to the Notice of Noncompliant Amendment mailed June 2, 2005.

Applicant's July 11, 2005 response

Applicant filed a response to the Advisory action on July 11, 2005 and noted therein that the Notice of Noncompliant Amendment was dated June 6, 2004, was not postmarked in the Examiner's zip code until June 15, 2004; and not postmarked in Applicant's zip code until June 19, 2004. Applicant asserts that he was not certain as to the commencement of the time period and requested reconsideration thereof. Applicant also made a reference to an

extension of time; however, no extension of time fee was included in the correspondence.

Applicant is advised that the Notice of Noncompliant Amendment clearly stated that "[I]f the Noncompliant amendment is in reply to a **NON-FINAL OFFICE ACTION** … applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment."

Here, the Notice of Noncompliant amendment was mailed on June 2, 2006. Applicant failed to reply by July 2, 2006, and the application thereafter became abandoned.

Applicant is also advised that extensions of time require the appropriate fee commensurate with the extension period (one month; two months; three months, etc.) requested. A list of current fees is also available at www.uspto.gov.

Conclusion

The Notice of Noncompliant clearly set forth the period for reply and also provided for extensions of time. Applicant was unsure of the dates; however, it is Applicant's responsibility to ensure that timely and proper replies are filed. That Applicant was unsure or unclear as to the rules of practice in this Office do not excuse Applicant of the responsibility to file a timely, complete and proper reply to the Office action as the condition of the case requires. The petition is dismissed.

Applicant must now revive the application before the amendment may be considered by the Examiner.

Alternate Venue

Applicant is strongly urged to file a petition to revive the application. In order to revive an application, the following requirements must be met:

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which

prima facie places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Item (**1**): Applicant must file a response that addresses the issues raised in the non-final Office action.

Item (**2**): Applicant must provide the petition fee. A fee of $750.00 is required.

Item (**3**): Applicant must provide a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

As to item (**4**), since this application was filed after June 8, 1995, item (**4**) is not required.

Applicant is further advised to contact the Office of Independent Inventors, www.uspto.gov and at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, or to seek the assistance of a registered practitioner, for assistance in prosecuting his patent application.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

#2

JC960 U.S. PTO
10/393789
03/21/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Addison *et al.*

Filing Date: Herewith

Attorney File No.: 14856-03

Entitled: SYSTEMS AND METHODS FOR DISTRIBUTING PRICING DATA FOR COMPLEX DERIVATIVES SECURITIES

Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102

SIR:

It is requested that the above-captioned patent application, filed herewith, be granted Special status for accelerated examination. As set forth in MPEP § 708.02(VIII), such a petition requires: (1) that all claims be directed to a single invention; (2) a pre-examination search; (3) copies of the references identified in the search deemed most closely related to the claimed subject matter; (4) a detailed discussion pointing out with particularity how the claimed subject matter is patentable over the references; and (5) the fee set forth in 37 C.F.R. 1.17(h). As set forth in more detail below, Applicants have complied with each of these requirements and granting of this Petition is respectfully requested.

I. APPLICANT'S CLAIMED INVENTION

Applicants' claimed invention is directed to systems and methods for pricing derivative securities by way of an externally based pricing engine and automatically transmitting the pricing data to network-based trading platforms. The pricing engine can receive and process up-to-date information to derive up-to-date pricing data for complex derivative securities. The systems and methods of the invention are useful to widely offer investors up-to-date pricing data, through network-based trading platforms, for complex and exotic derivative securities. Using the methods and systems of the invention, investors can make informed decisions to buy and sell

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complex derivative securities and financial institutions can better manage the risks associated with offering complex derivative securities.

II. THE PATENT APPLICATION PRESENTS CLAIMS TO A SINGLE INVENTION

The claims are directed to a single invention. The current application comprises three independent claims. Independent claim 1 is directed to a method of providing pricing data for a derivative to a network based trading platform; independent claim 10 is directed to a system capable of executing the claimed method; and independent claim 18 is directed to a computer readable medium programmed with computer software that is operative to cause a system comprising a memory storage device and a processor to perform the claimed method.

Should the Examiner determine that the claims are not directed to a single invention, Applicants will make an election without traverse according to established telephone-restriction practice. MPEP 708.02(VIII).

III. PRE-EXAMINATION SEARCH

A pre-examination search was performed by the professional search firm of Woolcott LLC ("Woolcott") to locate the U.S. Patents and U.S. Patent Publications relevant to the inventive concept (the "Search"). Woolcott is located at 2001 Jefferson Davis Highway, Suite 411, Arlington, Virginia 22202, Tel: 800.223.9697, and has a web page address of http://www.woolcott.com/index.html.

Copies of Woolcott's Search Report and the identified references are attached. As can be seen from the Search Report, the following classes and subclasses were searched.

Class	Subclasses
705	35, 37

Woolcott pointed out three references deemed most closely related to the claimed subject matter: (1) U.S. Patent 5,270,922 (issued Dec. 14, 1993) to G. Higgins ("Higgins"); (2) U.S. Patent 5,297,032 (issued Mar. 22, 1994) to D. Trojan ("Trojan"); and (3) U.S. Patent 5,845,266 (issued Dec. 1, 1998) to W. Lupien ("Lupien"), (collectively referred to herein as the "Relevant References"). Each of the Relevant References is discussed in detail below.

Nothing in this Petition should be construed as an admission that any reference identified in the Search or discussed herein is available as prior art to the above-captioned application.

IV. DETAILED DISCUSSION OF PATENTABILITY

The claimed subject matter of the above-captioned patent application is patentable over the Relevant References. Applicants provide detailed discussion in this Section that points out with particularity how the claimed subject matter is patentable over the Relevant References.

A. U.S. PATENT 5,270,922 (ISSUED DEC. 14, 1993) TO G. HIGGINS ("HIGGINS")

The subject matter of the above-captioned patent application is patentable over Higgins. Among other deficiencies of Higgins, it does not teach or suggest a pricing engine for pricing financial instruments or derivatives as recited in Applicants' claims.

Higgins discloses a system for distributing and displaying financial information via a plurality of stored-program-controlled work stations. The work stations are user programmable for customized displays. Various financial-instrument related tasks, such as security price limit alerts and customizes selective ticker displays are user programmable and are actuated by the work station data base.

Since Higgins does not teach or suggest Applicants' pricing engine for pricing financial instruments or derivatives, Applicants' invention as claimed is patentable over Higgins.

B. U.S. PATENT 5,297,032 (ISSUED MAR. 22, 1994) TO D. TROJAN ("TROJAN")

The currently claimed invention is patentable over Trojan. Among other deficiencies of Trojan, it does not teach or suggest a pricing engine for pricing financial instruments or derivatives as recited in Applicants' claims.

Trojan teaches an integrated data-processing system comprising work stations in communication with an on-line database for receiving financial information in real time. The on-line data base receives a stream of financial information, including pricing and transactional data. It also includes a system for organizing substantial streams of transactional data into a form providing detailed information in real time to securities traders. In sum, Trojan teaches a work station that provides current pricing information, trend analysis regarding shifts inside the market for specific stocks, and permits transactions through a dealer network.

Since Trojan does not teach or suggest Applicants' pricing engine for pricing financial instruments or derivatives, Applicants' invention as claimed is patentable over Trojan.

C. U.S. PATENT 5,845,266 (ISSUED DEC. 1, 1998) TO W. LUPIEN ("LUPIEN")

The currently claimed invention is patentable over Lupien. Among other deficiencies of Lupien, it does not teach or suggest a pricing engine for pricing financial instruments or derivatives as recited in Applicants' claims.

Lupien teaches a system that allows the trading of financial instruments, such as futures, derivatives, options, bonds, and currencies through a plurality of trader terminals. Traders at various trading terminals enter trading parameters, such as price and quantity (buy and sell satisfaction density profiles) into the trading terminal that must be satisfied before a trade or transaction is executed. The trading terminals are connected to a matching controller computer, which comprises a database for storing the trading parameters (buy and sell satisfaction density profiles), and that matches trading parameters anonymously so that the buy and sell orders can be executed.

Since Lupien does not teach or suggest Applicants' pricing engine for pricing financial instruments or derivatives, Applicants' invention as claimed is patentable over Lupien.

V. CONCLUSION

In view of the foregoing, Applicants' have met all the requirements for accelerated examination set forth in 37 C.F.R. § 1.102 and as detailed in MPEP § 708.02(VIII). Accordingly, Applicants respectfully request this case be made special for expedited examination. Please charge the required fee set forth in 37 C.F.R. § 1.17(h), estimated to be $ 130.00, to Deposit Account No. 501358.

Respectfully submitted,

Glen E. Books
Reg. No. 24,950
Attorney for Applicant

March 21, 2003

LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, NJ 07068
Tel.: 973-597-6162

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TECHNOLOGY CENTER 3600

GLEN E. BROOKS
LOWENSTEIN SANDLER
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

In re application of : **DECISION ON PETITION**
Mark Addison et al. : **TO MAKE SPECIAL**
Application No. 10/393,789 : **(ACCELERATED**
Filed: March 21, 2003 : **EXAMINATION)**
For: SYSTEMS AND METHODS FOR DISTRIBUTING PRICING DATA FOR COMPLEX DERIVATIVE SECURITIES

This is in response to the petition filed on March 21, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

SUMMARY: Petition to Make Special **GRANTED.**

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

SNM/slb: 08/09/07

UNITED STATES PATENT AND TRADEMARK OFFICE

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65 WOODS END ROAD
STAMFORD CT 06905

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AUG 2 8 2008

In re Application of :
Timothy M. Shanley et al. :
Application No. 10/393,800 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. TRA-075 :

This is a decision on the petition filed August 4, 2008 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 for failure to timely pay the issue fee on or before June 11, 2008. Accordingly, a Notice of Abandonment was mailed July 9, 2008.

The issue fee in the amount of $720.00 and petition fee in the amount of $770.00 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)).

#6

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

GENESIS LLP
725 FLORIDA STREET
UNIT 18
SAN FRANCISCO, CA 94110

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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

This is a decision on the petition filed January 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is dismissed.

Facts:

A non-final Office action was mailed on April 30, 2004.

The Office failed to receive a reply to the Office action.

Per an attachment to the Notice of Abandonment mailed November 30, 2005,

> Examiner called Mr. Gil Silberman to determine the status of the application since no reply to the Office action mailed on April 30, 2004 was received. Examiner talked to Natasha Murphy, and she stated the Office action was not received and that they had moved to a new location. [T]he examiner faxed a copy of the Office Action to Mr. Silberman.

A request to change the address of record was filed on December 16, 2004.

The instant petition was filed on January 27, 2006.

The petition requests the holding of abandonment be withdrawn based on non-receipt of the Office action.

Analysis:

Non-receipt of an Office action will not justify withdrawal of the holding of abandonment when an applicant fails to ensure the Office has a current mailing address. The record indicates the

Office action may not have been received due to a relocation of petitioner's office. Therefore, the Office cannot withdraw the holding of abandonment.

A fee is unnecessary for a petition to withdraw the holding of abandonment. Therefore, the Office will schedule a refund of the $400 submitted with the petition.

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 ($750 for a small entity), and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64
Copy of April 30, 2004 Office action

PTO/SB/64 (10-05)
Approved for use through 07/31/2006, 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

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

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

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

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

Office Action Summary	Application No. 10/393,811	Applicant(s) WESCOTT, WILLIAM F.	
	Examiner Ovidio Escalante	Art Unit 2645	

– 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 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 *19 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 and 2* 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 and 2* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Application/Control Number: 10/393,811
Art Unit: 2645

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

On page 2, line 24, " "voicemasks " " should be changed to --"voicemasks"--

on page 4, line 23 "perameters" should be change to --parameters--. Appropriate correction is required.

Drawings

2. The drawings have been approved by the draftsperson.

Claim Objections

3. Claim 1 is objected to because of the following infomalities: in line 3 the quotation marks around "voicemasks" should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Cohn et al. US Patent 6,411,684.

Regarding claim 1, Cohn teaches a synthesized voice message system, (col. 13, lines 41-51; col. 22, line 66-col. 23, line 21), comprising:

message storage block (58-message store- fig. 2) and a text-to-speech block (media translator 69 - fig. 2) which are interconnected, forming a voicemasks product (col.1 6, lines 9-27) which enables the transmission and receipt of messages to and from users using one or more servers (fig. 1) chosen from a list that includes an e-mail server, an Internet server, or a computer telephony server for fixed which can be part of a local telephone company system, (col. 7, lines 15-67).

Claim Rejections - 35 USC § 103

6. 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.

7. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Ball et al. US patent 6,459,774.

Regarding claim 2, in view of claim 1, Cohn teaches wherein said text-to-speech block enables the conversion of text messages to synthesized voice messages and wherein said blocks are interconnected and able to receive and transmit messages to a user

through a local telephone company, (fig. 1; col. 7, lines 15-67). Cohn does not specifically teach of wherein the storage block receives input parameters through e-mail.

However, Cohn suggests this since Cohn is able to format the messages based upon information received in the message.

Nonetheless, Ball teaches wherein a storage block receives input parameters through e-mail and wherein said text-to-speech block enables the conversion of text messages to synthesized voice messages according to specified parameters, (col. 3, lines 11-40; col. 26, lines 29-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Cohn by allowing for input parameters to be received in the e-mail messages so that the message sender can instruct the system on how to handle the message.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tverskoy et al. US Patent 6,341,160 teaches of sending input parameters (commands) from a user to a voice message device for instructing the device to perform actions based upon the input parameters located within the e-mail message.

10. Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 872-9314, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 703-308-6262. The examiner can normally be reached on M-F (6:30AM - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 703-305-4895. 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).

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Ovidio Escalante
Examiner
Group 2645
April 19, 2004

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49

WILLIAM F. WESCOTT
19207 NE 143RD PL.
WOODINVILLE, WA 98077

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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

This is a decision on the petition under 37 CFR 1.137(b) filed August 7, 2006, to revive the instant application.

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by the required reply. Although an amendment has been filed, the amendment is improper. The amendment states $250 is enclosed for excess claim fees. However, the check for $250 "bounced" and was not honored by the bank.

Any request for reconsideration should include $250 for the amendment and $50 for the fee due when a check submitted to the Office "bounces."

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)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

#11

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WILLIAM F. WESCOTT
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OFFICE OF PETITIONS

In re Application of Wescott
Application No. 10/393,811
Filing Date: March 19, 2003
Attorney Docket No. BO2-001

Decision on Petition

Corrected Decision

This is a decision on the petition under 37 CFR 1.137(b) filed November 27, 2006, to revive the instant application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The file will be forwarded to Technology Center Art Unit 2645 and the examiner will consider the merits of the amendment filed August 7, 2006, 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

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WILLIAM F. WESCOTT
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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

This is a decision on the petition under 37 CFR 1.137(b) filed November 27, 2006, to revive the instant application.

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

The instant petition requests revival of the application.

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 2645 will be informed of the instant decision and the examiner will consider the merits of the amendment filed August 7, 2006, 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

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GENESIS LLP
725 FLORIDA STREET
UNIT 18
SAN FRANCISCO, CA 94110

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

This is a decision on the petition filed January 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed on April 30, 2004.

The Office failed to receive a reply to the Office action.

Per an attachment to the Notice of Abandonment mailed November 30, 2005,

> Examiner called Mr. Gil Silberman to determine the status of the application since no reply to the Office action mailed on April 30, 2004 was received. Examiner talked to Natasha Murphy, and she stated the Office action was not received and that they had moved to a new location. [T]he examiner faxed a copy of the Office Action to Mr. Silberman.

A request to change the address of record was filed on December 16, 2004.

The instant petition was filed on January 27, 2006.

The petition requests the holding of abandonment be withdrawn based on non-receipt of the Office action.

Analysis:

Non-receipt of an Office action will not justify withdrawal of the holding of abandonment when an applicant fails to ensure the Office has a current mailing address. The record indicates the

Office action may not have been received due to a relocation of petitioner's office. Therefore, the Office cannot withdraw the holding of abandonment.

A fee is unnecessary for a petition to withdraw the holding of abandonment. Therefore, the Office will schedule a refund of the $400 submitted with the petition.

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 ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/64
Copy of April 30, 2004 Office action

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WOODINVILLE, WA 98077

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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 :
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b) filed August 7, 2006, to revive the instant application.

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by the required reply. Although an amendment has been filed, the amendment is improper. The amendment states $250 is enclosed for excess claim fees. However, the check for $250 "bounced" and was not honored by the bank.

Any request for reconsideration should include $250 for the amendment and $50 for the fee due when a check submitted to the Office "bounces."

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)."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Technology Center 2600

Genesis LLP
Law Firm
725 Flordia Street, Suite 18
San Francisco, CA 94110

Re: 10/393811

The purpose of this communication is to inform you that check number 0876, dated July 25, 2006 in the amount of $ 250.00 has been returned by the bank as unpaid.

The practice of the Office is to treat such returned checks as though the fee for which they were intended was never received. Therefore, you are required to submit the following fee(s):

X	$250.00 Claim fee
	$65.00 surcharge for a late filing fee
X	$50.00 fee for processing a returned check

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THE REQUIREMENTS OF THIS NOTICE IS SET TO EXPIRE TWO MONTHS FROM THE DATE OF THIS NOTICE.

FAILURE TO RESPOND WITHIN THIS PERIOD WILL RESULT IN ABANDONMENT OF THE APPLICATION.

The filing receipt will not be mailed out until all fees are paid. If the filing receipt has already been mailed out, it is void if all the fees are not paid in a timely manner.

Further correspondence with respect to this matter should include a copy of this notice and be addressed to the following:

Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquiries should be directed to the Office of Initial Patent Examination, Customer Service Center at (571) 272-4000.

11/22/2006 NHGUYEN1 00000054 10393811
01 FC:2202 250.00 OP
02 FC:9101 50.00 OP

Cynthia Streater
Office of Initial Patent Examination

2/2

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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

This is a decision on the petition under 37 CFR 1.137(b) filed November 27, 2006, to revive the instant application.

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

The instant petition requests revival of the application.

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 2645 will be informed of the instant decision and the examiner will consider the merits of the amendment filed August 7, 2006, 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

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OFFICE OF PETITIONS

In re Application of Wescott :
Application No. 10/393,811 : Decision on Petition
Filing Date: March 19, 2003 :
Attorney Docket No. BO2-001 :

Corrected Decision

This is a decision on the petition under 37 CFR 1.137(b) filed November 27, 2006, to revive the instant application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2004, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A Notice of Abandonment was mailed on November 30, 2004.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The file will be forwarded to Technology Center Art Unit 2645 and the examiner will consider the merits of the amendment filed August 7, 2006, 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

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LAW OFFICES OF GERALD L. ROBERTSON, ESQ.
P.O. BOX 5748
NAPA CA 94581-0748

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of :
Randall D. Walton :
Application No. 10/393,816 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket Number: Walt-03-001 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 28, 2005, to revive the above identified application.

The petition is **DISMISSED**.

The attorney of record, Gerald L. Robertson's representation of the inventor(s) or owner(s) in the matter of any pending petition is not acceptable because our records indicate he was removed from the Register of Patent Attorneys and Agent on August 26, 2003. Please see the Official Gazette Notice dated September 23, 2003 at **http://www.uspto.gov/web/offices/com/sol/og/2003/week38/patremv.htm**. Your attention is also directed to the provisions of 35 USC 33. All correspondence concerning this petition must be signed by: (1) all named applicants (inventors), (2) all the owners of the rights to the invention, or (3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). If our records are in error, please notify the Office. If our records are correct and the above-identified practitioner desires to be

---

[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)).

reinstated, please communicate with Shirley Martin at the Office of Enrollment and Discipline. Accordingly no further action will be taken on the above-identified petition.

A copy of this decision is being forwarded to the inventor who may wish to secure the services of a registered patent attorney or agent to file and sign the petition. The Office cannot aid in selecting an attorney or agent. However, a list of attorneys and agents registered to practice before the Office is available from the USPTO web site, **http://www.uspto.gov**. For assistance locating this information, contact the Office of Enrollment and Discipline at (571) 272-4097 or call the Inventors Assistance Center toll free number 1 (800) 786-9199.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
RANDALL D. WALTON
4215 PLASS DRIVE
NAPA, CA 94558

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

COPY MAILED

MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Randall D. Walton :
Application No. 10/393,816 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket Number: Walt-03-001 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed February 21, 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 October 1, 2004. A shortened statutory period of one month was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 2, 2004. Accordingly, a Notice of Abandonment was mailed April 20, 2005.

This matter is being referred to Technology Center 2875 for appropriate action on the amendment filed February 21, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Mark T. Manfred	:	
Application No. 10/393,823	:	DECISION GRANTING PETITION
Filed: March 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. H0003758	:	

This is a decision on the petition, filed October 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JEFFREY B. HERSCH et al

Application 10/393,828
Technology Center 3600

Mailed: July 23, 2010

DECISION ON PETITION

This is a decision on the "Petition for Revival of an Abandoned Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed January 22, 2010 ("Petition to Revive"). *See* 75 Fed. Reg. 15,689-90 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On February 26, 2009, Appellants filed an Amended Appeal Brief.

2. On June 9, 2009, the Primary Examiner issued a Notification of Non-Compliant Appeal Brief (37 CFR 41.37). The Notification granted Appellants a period of one month within which to file a corrected brief, i.e., until July 9, 2009.

3. On December 12, 2009, having received no response to the Notification of Non-Compliant Appeal Brief, the Primary Examiner issued a Notice of Abandonment.

4. On January 22, 2010, Appellants filed the Petition to Revive.

5. In respect to revival of an unintentionally abandoned application, 37 C.F.R. § 1.137(b) provides that:

> (b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination prosecution terminated under §§ 1.550(d) or 1.957(b) or limited under § 1.957(c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

6. The Petition to Revive was accompanied by:

(a) an Amended Brief on Appeal;

(b) the Petition fee;

(c) A 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."

7. There are no facts known by the Office that would cause the Office to question whether either the abandonment or delay in filing the Petition to Revive was unintentional.

8. Since the application was filed after June 8, 1995, on March 21, 2003, no terminal disclaimer is required.

DISCUSSION

As indicated above, Appellants have complied with all of the requirements for a petition under 37 C.F.R. § 1.137(b) for revival of an unintentionally abandoned application.

DECISION

In view of the foregoing, the Petition to Revive is GRANTED and the Amended Brief on Appeal will be reviewed by the BPAI for compliance with applicable regulations.

Michael R. Fleming
Chief Administrative Patent Judge

Timothy J. Hadlock
6001 Bollinger Canyon Road, Building T
San Ramon, CA 94583

7-25-07

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

Patent No. : 7,064,820
Ser. No. : 10/393,833
Inventor(s) : Hisashi Isozaki, et. al.
Issued : June 20, 2006
Title : SURFACE INSPETION METHOD AND SURFACE INSPECTION SYSTEM
Docket No. : 463P103

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Kevin S. Lemack
Neilds & Lemack
176 E. Main Street
Westboro, MA 01581

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-10-07

Paper No.: _____

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction for Appl. No. 7064820 (10/393833)

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**.

Applicant & Attorney want to know the status A/S/A/P. Assignee to be added.

E M James

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

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Nields & Lemack
176 E. Main Street
Suite #5
Westboro, MA 01581

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OFFICE OF PETITIONS

In re Patent No. 7,064,820 :
Issue Date: June 20, 2006 :
Application No. 10/393,833 : ON PETITION
Filed: March 21, 2003 :
Patentee(s): Hisashi Isozaki, et. al. :

This is a decision on the request for Certificate of Correction filed July 16, 2007, which is being treated as a request under 37 CFR 3.81[1], to add a second name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

As authorized, the $130 processing fee for treatment of the instant request has been charged to petitioner's deposit account.

The request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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Paper No. 7

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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NOV 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Dougherty, et al. :
Application No. 10/393,837 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 10018345-1 :

This is a decision on the "Petition Under 37 CFR 1.53" filed on September 16, 2003, requesting that the above-identified application be accorded a filing date of March 21, 2003, including page 13 of the specification.

The application was submitted on March 21, 2003. However, on May 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts" that stated the application had been accorded a filing date, and that Page 13 of the specification appears to have been omitted. On September 3, 2003, OIPE mailed a "Notice of Incomplete Reply," that again stated Page 13 of the specification appears to have been omitted.

In response, on September 16, 2003, the present petition was filed wherein petitioner argues that page 13 of the specification was filed on March 21, 2003. In support, petitioner has submitted a copy of the return postcard receipt, and a copy of the page 13 of the specification that petitioner claims was submitted with the application on March 21, 2003.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals page 13 if the specification is, in fact, missing. Page 13 of the specification was not filed on March 21,

2003, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The only evidence relied on to support petitioner's allegation is the copy of the return postcard receipt.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503. Unfortunately, petitioners' postcard receipt does not identify the number of pages of specification filed on March 21, 2003, or even that a specification was a paper filed on March 21, 2003.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail: Mail Stop Petition
Commissioner for Patents
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

The application will maintain the March 21, 2003 filing date, and the application papers (i.e. the original disclosure of the invention) will include only those application papers present in the USPTO on the filing date.

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

Telephone inquiries 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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Paper No. 6

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Dougherty, et al. :
Application No. 10/393,837 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 10018345-1 :

This is a decision on the "Petition Under 37 CFR 1.53" filed on September 16, 2003, which has been treated as a petition under 37 CFR 1.181, requesting that the surcharge for late filing of the declaration filed June 18, 2003 be accepted as received on June 18, 2003.

The petition is GRANTED.

The application was submitted on March 21, 2003. However, on May 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts" that stated the declaration was missing.

In response, petitioner submitted by facsimile, an executed declaration and surcharge for late filing on June 18, 2003. However, on September 3, 2003, OIPE mailed a "Notice of Incomplete Reply," that stated the surcharge for late filing of the declaration was not received.

A review of the application file indicates the presence of the "Transmittal Letter For Submittal Of Missing Parts," (Transmittal) which is date-stamped as received by the USPTO on June 18, 2003. The Transmittal contains an authorization to charge applicant's deposit account the required $130.00 surcharge for late filing of the declaration.

Accordingly, the $130.00 is accepted as timely filed and the "Notice of Incomplete Reply," mailed September 3, 2003, regarding the non-receipt of the surcharge for late filing of the declaration, is hereby withdrawn.

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

Telephone inquiries 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 11, 2008

TO SPE OF : ART UNIT 2862
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/393845 /6768307

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

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: _____

/Patrick Assouad/ SPE, AU2858

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 18 2006

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BRIAN D. GILDEA
APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM, MA 01701

In re Application of
STENDER
Serial No: 10/393,855
Filed: 21 MARCH 2003
Attorney Ref No. BP0201-US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 7 August 2006, to review the restriction requirement.

BACKGROUND

A review of the file history shows that the on 29 November 2005, the examiner required a restriction between:

Group I, claims 1-25 and 54, drawn to a PNA oligomer comprising SEQ ID No 1;
Group II, claims 1-25 and 54, drawn to a PNA oligomer comprising SEQ ID No 2 and
Group III, claims 39 and 40 drawn to a method of using a primer.

Applicants elected Group I, with traverse, arguing the restriction only between Groups I and II.

On 20 March 2006, the examiner mailed an Office action on the merits to applicants in which the traversal was considered but deemed not persuasive. The restriction requirement was made FINAL. Claims 39-40 were withdrawn from examination as being directed to non-elected inventions. Claims 1, 2, 25 and 54 were objected to for reciting non-elected subject matter. Claims 1-25 and 54 were examined with regard to SEQ ID No 1.

Claims 1-25 and 54 were rejected under 35 USC 112, 2nd paragraph for indefiniteness.

Claims 1-12, 25 and 54 were rejected under 35 USC 112, 1st paragraph for failing to comply with adequate description requirement.

Claims 1-7, 11 and 12 were rejected under 35 USC 102(e) as being anticipated by Breton.

Claims 13-24 were rejected as being unpatentable under 35 USC 103(a) over Castro et al, in view of Hyldig-Nielson et al and Baker et al.

Claims 13-24 were rejected as being unpatentable under 35 USC 103(a) over Rastogi et al, in view of Hyldig-Nielson et al and Baker et al.

SEQ ID No 1 was indicated as free of the prior art.

Applicants filed a response to the Office action and this petition on 7 August 2006.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered. This decision will

(A) clarify the restriction requirement,

(B) address applicants' arguments concerning the ten sequence waiver in 803.04

(C) address applicants' arguments concerning provisional election of species and examination practice in 803.02 and

(D) point out some possible rejoinder options, should the elected invention be deemed allowable.

A. Clarification of the Restriction Requirement

At the onset, it is noted that the restriction requirement incorrectly stated that Groups I and II are unrelated. Groups I and II are related in terms of modes of operation and effect as the specification discloses using the primers to detect *Bacilllus anthracis*.

However, the inventions are distinct for the following reasons:

> Inventions I and II are directed to related products. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have a materially different design. The primers are structurally diverse. A comparison of SEQ ID No 1 and 2, set forth below, shows no significant sequence homology.

<400> 1
ccassggtat cddtc

<400> 2
ttcaaaggct cccgc

Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

For the reasons set forth above, the oligomers in Group I and II are distinct. Search and examination of both Group I and II would be burdensome for the following reasons. A search for Group I would require a search query of the databases for SEQ ID No 1, which is not likely to result in prior art pertinent for Group II. A search for Group II would require a search query of the databases for SEQ ID No 2, which is not likely to result in prior art pertinent for Group II.

Moreover, the claimed oligomers are burdensome to search and examine because they not limited to the fully defined sequence in the sequence listing. See claim 1 below.

1. (Currently Amended) A PNA oligomer comprising a probing nucleobase sequence, wherein at least a portion of the probing nucleobase sequence is at least ninety percent homologous to ~~the~~ a nucleobase sequence[s], or ~~their~~ its complement[s], selected from the group consisting of: CCA-SSG-GTA-TCD-DTC (Seq. ID No. 1) and TTC-AAA-GGC-TCC-CGC (Seq. ID No. 2).

Claim 1 reads upon portions comprising sequences which are only 90% homologous- these open language allows for substitutions, insertions, deletions and mismatches. A search query directed to a partially defined sequence often results in a larger volume of pertinent prior art that requires additional time and effort to review and analyze, thus adding to the search and examination burden.

Moreover, the sequences are only 15 bases in length. Such short sequences claimed in open language are often more burdensome to search and examine than longer, more fully defined sequences, because such a search query often identifies a larger volume of pertinent art that must be reviewed and analyzed. Sequences claimed in open terms or functional language, such as "complementary to" also present additional search and examination burden as these phrases read upon fragments and sequences which show only partial alignments.

Because these inventions are independent or distinct for the reasons given above and the

inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Turning now to the petition, applicants argue that the restriction requirement should be withdrawn in view of MPEP 803.04 and 803.02. These arguments will be addressed in turn.

B. Applicants argue Restriction between Group I and II is improper in view of 803.04

Applicants argue that the examination of more than one sequence would not be an undue burden on the examiner on the basis that "...to aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et. seq* and permit a reasonable number of sequences to be claimed in a single application...normally ten sequences..." See 803.04.

Applicants' reference to the U.S. Patent and Trademark Office policy regarding the examination of patent applications that claim large numbers of nucleotide sequences in the Official Gazette, 1192 O.G. 68 (November 19, 1996) is acknowledged, however, not found persuasive on the basis that this policy regarding the partial waiving of the requirements of 37 CFR 1.141 is such that it will permit a reasonable number of nucleotide sequences to be claimed in a single application. Under the policy, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction. The waiver is permissive in nature and not a requirement. The waiver was written in 1996, well before the exponential growth of the nucleic acid databases. The waiver applies only to nucleotide molecules. In contrast, the instant invention does not comprise a nucleotide as it does not contain a sugar phosphate backbone. For these reasons, the present restriction requirement conforms with this policy as it has required that the application be restricted to a single sequence.

C. Applicants argue Restriction between Group I and II is improper in view of 803.02

Group I and Group II are claimed in the alternative of one claim. Applicants argue that in this situation, the restriction requirement should be withdrawn in view of In re Weber, In re Haas, In re Harnisch and Ex parte Hozumi. Applicants point to MPEP 803.02.

Applicants are correct that when inventions, albeit species encompassed by a genus or independent or distinct inventions, are recited in the alternative of a claim (Markush-type claim) the examination practice set forth in 803.02 applies.

The search and examination of alternatives in a Markush-type claim will be limited to the elected species and the provisional election of species requirement will take the effect of a restriction requirement when the elected species are rejected under 35 USC 102 or 103. In this application, it was correct for the examiner to limit the search and examination to the elected oligomer in view of the various rejections made under 35 USC 112, 1st, 35 USC 102(e) and 35 USC 103(a). Should the rejections on the elected invention be overcome by amendment or

argument, the search and examination should then be extended to a second alternative of the Markush claim.

D. Rejoinder Opportunities

Should all claims directed to the elected oligomer be deemed allowable, combinations which require the allowable oligomer will be considered for rejoinder. See MPEP 821.04(a).

Moreover, as set forth in detail below, should all claims to the elected product become allowable, rejoinder practice may be appropriate for Group III directed to the process of using the product of Group I.

> The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.
> In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.144 to request rejoinder of Groups I and II is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to consider the response filed by applicants on 7 August 2006.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300

George C. Elliott

George 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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Paper No. 7

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

COPY MAILED

OCT 29 2003

OFFICE OF PETITIONS

In re Application of :
Karen S. Herhold et al :
Application No. 10/393,888 : DECISION GRANTING STATUS
Filed: March 21, 2003 : UNDER 37 CFR 1.47(A)
For: PEARLESCENT HONEYCOMB MATERIAL :
AND METHOD FOR FABRICATING SAME

This is in response to the petition under 37 CFR 1.47(a), filed September 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LEO WARNER
7250 ELM ST
LONGMONT, CO 80504

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OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of
Karen S. Herhold and Leo Warner
Application No. 10/393,888
Filed: March 21, 2003
For: PEARLESCENT HONEYCOMB MATERIAL AND METHOD FOR FABRICATING SAME

Dear Mr. Warner:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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

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

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NOV 04 2005

OFFICE OF PETITIONS

In re Patent No. 6,868,640	:	
Issue Date: March 22, 2005	:	
Application No. 10/393,904	:	DECISION ON PETITION
Filed: March 20, 2003	:	
Attorney Docket No. PHA-51238/VLSI-3464	:	

This is a decision on the "PETITION TO CORRECT NAME OF ASSIGNEE ON PATENT", filed June 13, 2005.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 1.183 is granted. Such petition under 37 CFR 1.183 should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

While petitioner did not include the statement as set forth in (C) above, petitioner included a copy of the Notice of Recordation of Assignment document. A review of the Notice reveals that the assignment was recorded prior to issuance.

Receipt of the $130 processing fee and the $100 Certificate of Correction fee is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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Paper No. None

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

COPY MAILED
SEP 15 2006
OFFICE OF PETITIONS

In re Application of :
William D. Holloway, Jr. et al. :
Application No. 10/393,910 : DECISION ON PETITION
Filed: March 20, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 108542-000004CIP :
Title: CULTURE MEDIA AND METHODS OF MAKING AND USING CULTURE MEDIA :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 3, 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 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.

This application is being forwarded to Technology Center Art Unit 1618 for consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/393,910	03/20/2003	1618	1028	108542-000004CIP	16	17	17

CONFIRMATION NO. 4304

CORRECTED FILING RECEIPT

OC000000020375379

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Date Mailed: 09/11/2006

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)

William D. Holloway JR., Carlsbad, CA;
Michael A. Holloway, Escondido, CA;
Nikolai Tankovich, San Diego, CA;
Eugene Baranov, San Diego, CA;

Power of Attorney:

Kamwah Li--34211
F Brotman--35461
Troy Schmelzer--36667
Stephen Beuerle--38380
Anthony Dain--46651
John Kyle--48318

Domestic Priority data as claimed by applicant

This application is a CIP of 10/301,416 11/21/2002
which is a CIP of 09/698,537 10/26/2000 PAT 6,521,248
This application 10/393,910
is a CIP of 10/470,655 02/14/2003
which is a CON of 09/698,537 10/26/2000 PAT 6,521,248
which claims benefit of 60/161,546 10/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 06/20/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/393,910

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Culture media and methods of making and using culture media

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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#13

STOEL RIVES LLP - PDX
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204

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APR 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Kyung Y. Kim :
Application No. 10/393,955 :
Filed: March 21, 2003 :
Attorney Docket No. 50001/92:2 :

ON PETITION

This is a decision on the petition, filed April 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the application file in the Office of petitions, the file will be forwarded to Technology Center AU 2829 to 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-16-07

TO SPE OF : **Technology Center** 2829 10/393955

SUBJECT : Request for Certificate of Correction on Patent No.: 7119566 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.

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

Ha Nguyen — **SPE**

2829 — **Art Unit**

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.
10/393,997	03/24/2003	Masaru Hikosaka	030381	8406

23850 7590 04/14/2008
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON, DC 20005

EXAMINER	
BARTON, JEFFREY THOMAS	
ART UNIT	PAPER NUMBER
1795	
MAIL DATE	DELIVERY MODE
04/14/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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wk

Mailed: 4-14-08

In re application of	:	
Hikosaka et al.	:	DECISION ON
Serial No. 10/393,997	:	PETITION
Filed: March 24, 2003	:	
For: Solar Cell Module	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO PROVIDE APPLICANTS WITH A COPY OF A PTO-1449 that bears the Examiner's initials, signature and date acknowledging the receipt and consideration of the references filed on an IDS on January 27, 2005.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Darren Crew
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

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United States Patent and Trademark Office
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Mailed: APR 2 1 2005

jal
Paper Number _____

In re application of
Norio Saski et al.
Serial No. 10/394,012
Filed: March 24, 2003
For: HIGH PERMITTIVITY DIELECTRIC CERAMIC COMPOSITION AND ELECTRONIC DEVICE

DECISION ON PETITION

This is a decision on the petition filed on December 3, 2004. The petition asserts that the Office Action dated June 25, 2004 was not received. The petition requests that the Office Action be re-mailed to the attorneys of record and that the period for response be restarted to run from the date of re-mailing.

DECISION

The Instant PETITION is accepted as a petition under 37 CFR 1.181(no fee).

A review of the application record and the petitioner's evidence indicates that the request has merit and is sufficient to establish that the Office Action of June 25, 2004 was not received. The evidence provided includes a copy of the docket record where the non-received Official Action would have been entered had it been received for the customary three-month due date.

The petition is **GRANTED**.

The time for response to the non-final rejection of June 25, 2004 will be restarted from the date of re-mailing.

J.A. Lorengo, Supervisory Patent Examiner
TC 1700, Art Unit 1755
Chemical and Materials Engineering

Jesse O. Collier
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Patent No. 7,134,043 :
Issue Date: November 7, 2006 :
Application No. 10/394,056 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 3722-0139P

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE: W. Korzuch

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/394,067 Patent No.: 7106553

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: _____

William Korzuch — **SPE**

2627 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

THE PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

SEP 10 2003

OFFICE OF PETITIONS

In re Application of :
Sugiyama et al. :
Application No. 10/394,070 :
Filed: March 21, 2003 : ON PETITION
Attorney Docket No. 9174C& :

This is a decision in response to the correspondence filed August 11, 2003, requesting a refund of the petition fee.

Background

The application was filed on March 21, 2003. However, on May 16, 2003, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application" (hereinafter "Notice"), stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that Figures 7-35 described in the specification appeared to have been omitted from the application.

Applicant responded with the a petition filed on July 14th (hereinafter "the July 14th petition), wherein Applicant admitted that the application was filed with the wrong drawing Figures. Applicant petitioned to have substitute drawings, Figures 1-35 that were filed with the July 14th petition, entered into the application and accorded a filing date of March 21, 2003. Applicant also asserted that the instant application is a continuation application of international application WO 02/24130 A1, which was incorporated by reference, and that no new matter was being introduced.

In a Decision mailed July 31, 2003, Applicant was advised that a petition was not necessary to add the drawings if in fact they were not new matter in view of the incorporation by reference of prior application PCT/JP01/08180, presumed to also be application WO 02/2410 A1. Applicant was further informed that the petition fee would not be refunded because the petition was not necessitated by any error on the part of this Office.

The instant Request for Refund

Applicant responds to that Decision with the instant Request for Refund, wherein Applicant asseverates that a refund of the petition fee is appropriate because Applicant was allegedly directed by a representative of the [Office of] Initial Patent Examination Customer Service Center to file the §1.182 petition, whereas the July 31, 2003 Decision informed Petitioner that a Petition was not necessary. As such, Applicant asserts that it was Office error to require a petition.

In view of the refund request, and because Applicant has not provided any indication as to when he was directed to file the July 14th petition, it is unclear whether the petition was filed in response to the Notice of Omitted Items, or in response to a verbal communication between Applicant and an employee in the Office of Initial Patent Examination. However, the purpose of the petition, as iterated in the instant correspondence, was to request acceptance of omitted items that were mistakenly not filed with the application on March 21, 2003.

If the petition was filed in response to the alleged verbal communication, Applicant is directed to 37 CFR 1.2, which states, "All business with the Patent and Trademark Office should be transacted in writing." Applicant's assertion of "the fact that [he] was directed by the Initial Patent Examination Division Customer Service Center representative to file a §1.182 petition" should be supported by a copy of the written communication directing Applicant to file a petition; otherwise, the assertion is without merit. As 37 CFR 1.2 provides, "[n]o attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." Petitioner, a registered practitioner, is presumed to be aware of the patent rules.

Further to this, and if the petition was filed in response to the Notice, Petitioner did in fact receive a written response to his mistaken filing in the form of the Notice. The Notice provided Petitioner with three options: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a

petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "An applicant willing to accept the application as deposited in the USPTO need not respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s] . . .." See MPEP 601.01(g).

Apparently in response to the Notice, Petitioner filed the July 14th Petition[1]. However, as the Notice provides, a petition is only required to establish prior receipt in the Office of the drawings at issue. Petitioner was not seeking to establish prior receipt in the Office of the drawings at issue, instead, Petitioner requested the drawings be accorded a filing date of March 21, 2003, including drawing figures 1-35 filed with the July 14th petition.

Once the petition was filed, it had to be addressed. The July 31, 2003 Decision (in response to the July 14th petition), informed Petitioner of the proper course of action based upon his desire to include drawing figures 1-35, filed with the July 14th petition, in the instant application, and his assertion that no new matter was present in drawing figures 1-35 filed with the July 14th petition. The information provided to Petitioner, a registered practitioner, is also in the Manual of Patent Examining Procedure ("MPEP").

Because the petition was addressed, a fee was charged. As iterated in the July 31, 2003 Decision, the petition was not necessitated by any error on the part of this Office. The Notice was mailed in response to Petitioner's mistaken application filing wherein drawing figures referred to in the specification were not among the original papers filed with the application on March 21, 2003.

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[1] The petition was the first written communication received from Applicant after the Notice was mailed.

It was Petitioner, a registered practitioner, who filed the petition. Whether in response to oral advice, which provides no basis to assert a petition was required, or in response to the Notice, which also did not require a petition in view of the facts asserted therein, the petition was not necessitated by any error on the part of the PTO. The oral advice of a Customer Service Representative of the Office of Initial Patent Examination may not be relied upon to assert Office error. In fact, "[n]o attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." 37 CFR 1.2

Petitioner's request for a refund of the petition fee based upon the assertion that the petition was necessitated by an error on the part of this Office is without merit.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 21, 2003, using the drawing Figures filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 4

THE PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Sugiyama et al. :
Application No. 10/394,070 :
Filed: March 21, 2003 :
Attorney Docket No. 9174C& :

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 16, 2003, to revive the above-identified application.

This is a decision on the Response to the 37 CFR 1.182 Petition for Acceptance of Omitted Item While Retaining the Original Filing Date, filed June 14, 2003, requesting that the above-identified application be accorded a filing date of March 21, 2003, with new drawing Figures 1-35 as part of the original disclosure.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.182", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on March 21, 2003. However, on April 22, 2003, the Office mailed a " to Notice of Omitted Items in a Nonprovisional Application" (hereinafter "Notice"), stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that Figures 7-35 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that the application was filed with the wrong drawing Figures. Applicant petitions to have substitute drawings, Figures 1-35, entered into the application and accorded a filing date of March 21, 2003. Applicants also provide that the instant application is a continuation application of international application WO 02/24130 A1, and no new matter is being introduced.

A review of the Utility Patent Application Transmittal for this application reveals that the application incorporates by reference the entire disclosure of prior application PCT/JP01/08180[1].

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated by herein by reference." The statement may appear in the specification or in the application transmittal letter . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

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[1] It is presumed that PCT application WO 02/24130 A1, referenced in the petition, is application PCT/JP01/08180. If this presumption is incorrect, Petitioner must notify this Office immediately.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 21, 2003, using the drawing Figures filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Paper No. 7

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INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Sugiyama et al. :
Application No. 10/394,070 :
Filed: March 21, 2003 : ON PETITION
Attorney Docket No. 9174C& :

This is a decision in response to the correspondence filed August 11, 2003, requesting a refund of the petition fee.

Background

The application was filed on March 21, 2003. However, on May 16, 2003, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application" (hereinafter "Notice"), stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that Figures 7-35 described in the specification appeared to have been omitted from the application.

Applicant responded with the a petition filed on July 14th (hereinafter "the July 14th petition), wherein Applicant admitted that the application was filed with the wrong drawing Figures. Applicant petitioned to have substitute drawings, Figures 1-35 that were filed with the July 14th petition, entered into the application and accorded a filing date of March 21, 2003. Applicant also asserted that the instant application is a continuation application of international application WO 02/24130 A1, which was incorporated by reference, and that no new matter was being introduced.

In a Decision mailed July 31, 2003, Applicant was advised that a petition was not necessary to add the drawings if in fact they were not new matter in view of the incorporation by reference of prior application PCT/JP01/08180, presumed to also be application WO 02/2410 A1. Applicant was further informed that the petition fee would not be refunded because the petition was not necessitated by any error on the part of this Office.

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Paper No. 6

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Sugiyama et al. :
Application No. 10/394,070 :
Filed: March 21, 2003 :
Attorney Docket No. 9174C& :

CORRECTED DECISION
ON PETITION

This is a decision in response to the Petition for Acceptance of Omitted Item While Retaining the Original Filing Date, filed July 14, 2003, requesting that the above-identified application be accorded a filing date of March 21, 2003, with new drawing Figures 1-35 as part of the original disclosure.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.182", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on March 21, 2003. However, on May 16, 2003, the Office mailed a " to Notice of Omitted Items in a Nonprovisional Application" (hereinafter "Notice"), stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that Figures 7-35 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that the application was filed with the wrong drawing Figures. Applicant petitions to have substitute drawings, Figures 1-35, entered into the application and accorded a filing date of March 21, 2003. Applicants also provide that the instant application is a continuation application of

international application WO 02/24130 A1, and no new matter is being introduced.

A review of the Utility Patent Application Transmittal for this application reveals that the application incorporates by reference the entire disclosure of prior application PCT/JP01/08180[1].

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated by herein by reference." The statement may appear in the specification or in the application transmittal letter . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 21, 2003, using the drawing Figures filed on that date.

---

[1] It is presumed that PCT application WO 02/24130 A1, referenced in the petition, is application PCT/JP01/08180. If this presumption is incorrect, Petitioner must notify this Office immediately.

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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THE PROCTER & GAMBLE COMPANY
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WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,175,613 :
Issued: February 13, 2007 :
Application No. 10/394,070 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket Number: 9174C&* :

This is a decision on the petition, filed December 13, 2006, 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 name of a second assignee, JAPAN ABSORBENT TECHNOLOGY INSTITUTE, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of a second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

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

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[1] *See* Official Gazette of June 22, 2004

Office assignment records reflect that JAPAN ABSORBENT TECHNOLOGY INSTITUTE, is also an 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 and the fee for the certificate of correction have been properly charged to deposit account no.16-2480.

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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OFFICE OF PETITIONS

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

In re Application of :
Ung, Skelton, and Pinuad :
Application No. 10/394,101 :
Filed: March 19, 2003 :
Attorney Docket No. 9990-029001 :

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

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

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

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

The instant petition fails to satisfy (2). The declaration fails to list a post office address for the non-signing inventor. A declaration must list the post office address for all of the inventors unless a proper application data sheet listing the addresses is submitted. An application data sheet has not been submitted.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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OFFICE OF PETITIONS

In re Application of
Ung, Skelton, and Pinuad
Application No. 10/394,101
Filed: March 19, 2003
Attorney Docket No. 9990-029001

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed February 2, 2004.

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 previous petition was dismissed because the declaration failed to list a post office address for the non-signing inventor.

Petitioner was required to either submit a proper supplemental declaration or a proper application data sheet listing the addresses.

Normally, when a supplemental declaration is submitted to correct and/or add address information for one of the inventors, the supplemental declaration may be signed only by that one inventor and does not need to be signed by all of the inventors. However, in the instant case, Pinuad and Ung are signing the original declaration on behalf of the non-signing inventor. Therefore, the supplemental declaration must be signed by Pinuad and Ung *after* the address correction has been made to the declaration.

A new supplemental declaration or a proper application data sheet should be submitted.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 12

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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OFFICE OF PETITIONS

In re Application of	:	DECISION ACCORDING
Ung, Skelton, and Pinuad	:	STATUS UNDER
Application No. 10/394,101	:	37 CFR 1.47(a)
Filed: March 19, 2003	:	
Attorney Docket No. 9990-029001	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed June 16, 2004.

The petition is **granted**.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 13

Robert Skelton
445 Sea Lane
La Jolla, CA 92037-4950

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Ung, Skelton, and Pinuad :
Application No. 10/394,101 :
Filed: March 19, 2003 :
Attorney Docket No. 9990-029001 :

Letter

Dear Mr. Skelton:

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 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Dana M. Ung et al. :
Application No. 10/394,101 : ON PETITION
Filed: March 19, 2003 :
Attorney Docket No.: 99990-0029001 :

This is a decision on the petition filed February 13, 2009, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned January 19, 2009 and a Notice of Abandonment was mailed February 12, 2009, for the appellant's failure to timely file a response to the ACTION AFTER BOARD DECISION mailed December 18, 2008.The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is acceptable. The matter therefore is being referred to Technology Center 3636.

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 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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c/o EDWARDS & ANGELL, LLP
Dike, Bronstein, Roberts & Cushman, IP Group
P.O. Box 9169
Boston MA 02209

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APR 26 2006

OFFICE OF PETITIONS

In re Application of
Jitendra Singh Goela et al.
Application No. 10/394,110
Filed: March 22, 2003
Attorney Docket No. 51048-3 DIV
Title: METHOD AND APPARATUS FOR PRODUCING FREE-STANDING SILICON CARBIDE ARTICLES

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

This is a decision on the petition filed February 17, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed June 3, 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, and no further responses were received. Accordingly, the above-identified application became abandoned on September 4, 2005. A notice of abandonment was mailed on December 19, 2005.

The present petition was received on February 17, 2006, along with the petition fee and a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and the proper statement of unintentional delay. No terminal disclaimer is required. The RCE

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.

has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

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

The Technology Center will be made aware of this decision.

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

JAN - 6 2005

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JAN - 6 2005

OFFICE OF THE DIRECTOR
TC 3600

Jonathan R. Heim
61 Clarendon
Pacifica, California 94044

In re application of
Jonathan R. Heim
Application No. 10/394,115
Filed: March 20, 2003
For: MULTIPLE SPROCKET, MULTIPLE FUNCTION CHAIN GUIDE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 6, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B), above. In regard to condition A), no Power of Attorney has been filed with the office. With regard to

condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) has not been provided.

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

KJD/jwk: 1/05/05

cc:

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 24, 2008

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/394117 Patent No.: 7300146 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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2853
Art Unit

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Paper No. 4

Nathaniel Levin
Buckley, Maschoff, Talwalkar & Allison, LLC
Five Elm Street
New Canaan, CT 06840

COPY MAILED
JAN 15 2004
OFFICE OF PETITIONS

In re Application of :
Charles L. Curtis, et al. :
Application No. 10/394,120 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. G04.025 :

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 the Office of Initial Patent Examination.

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

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of

WEI
Application No. 10/394,137
Filed: March 24, 2003
Attorney Docket No. 2181.0010000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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 Linda E. Horner on behalf of herself. Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Linda Horner**
United States Patent & Trademark Office
600 Dulany Street
Alexandria, VA 22314

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Paper No. 4

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON, DC 20005

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of :
Takashi Hayashihara et al :
Application No. 10/394,153 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 09141.0002 :

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.

This file is being forwarded to Technology Center AU 3682.

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

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Paper No. None

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Shigeki Narushima et al. :
Application No. 10/394,162 : DECISION ON PETITION
Filed: March 24, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket Number: ASAIN 0121 :
Title: PLATE REDUCTION PRESS
APPARATUS AND METHODS

This is a decision on the petition filed on April 22, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 5, 2003, which set a shortened statutory period for reply of three (3) months. A response was received on November 5, 2003, and a notice of non-compliant amendment was mailed on November 18, 2003, which set a one-month period for response. No further responses were received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 19, 2003. A notice of abandonment was mailed March 23, 2005.

With the present petition, Petitioner contends that a second amendment was timely submitted, and has submitted both a copy of this amendment and a postcard receipt which indicates that a 7 page amendment was received in the Office of Initial Patent Examination on December 4, 2003. As such, it is clear that a response was received on that date, and subsequently misplaced in the Office.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**

Technology Center 3700 will be notified of this decision, so that the amendment which was timely submitted on December 4, 2003 can be processed.

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

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

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2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

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OFFICE OF PETITIONS

In re Application of	:	
Narushima et al.	:	
Application No. 10/394,162	:	DECISION ON APPLICATION
Filed: March 24, 2003	:	FOR
Atty Docket No. ASAIN 0121	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST UNDER 37 C.F.R. § 1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed May 1, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seven hundred nineteen (719) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred nine (409) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 22, 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 0 days. On May 1, 2006, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Applicants assert entitlement to a period of

[1] PALM records indicate that the Issue Fee payment was received on June 22, 2006.

adjustment of 719 days for the Office taking until March 22, 2006 to mail an action in response to their compliant amendment filed December 3, 2003. Applicants point out that this delay was due to the Office initially misplacing the reply and holding the application abandoned. Further, applicants assert that no reduction is warranted with respect to the abandonment as within 2 months of the Notice of Abandonment mailed March 23, 2005, on April 22, 2005, applicants filed a petition to withdraw the holding of abandonment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the Office action mailed November 18, 2003 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed March 23, 2005. In response, on April 22, 2005, applicants filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed March 3, 2006, the petition was granted on the basis that applicants had shown that a proper response was filed on December 3, 2003.

In view thereof, it is concluded that for purposes of calculating the patent term adjustment for this application the response should have been treated as received on December 3, 2003.

Thus, applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action mailed November 18, 2003. Moreover, applicants are correct that given the showing of receipt of applicants' response in the Office on December 3, 2003, the application is entitled to a period of adjustment for Office delay. The Office did not take action in response until March 22, 2006. Pursuant to § 1.702(a)(2) and § 1.703(a)(2), the period of adjustment is 718 days, (not 719 days) counting the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, April 4, 2004 and ending on the date of mailing of a notice of allowance under 35 U.S.C. 151, March 22, 2006.

However, given that the response was filed on December 3, 2003, entry of additional periods of reduction pursuant to 37 CFR §§ 1.704(c)(7) and (c)(8) are warranted.

37 CFR 1.704(c) states, 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:

> (7) Submission of a reply having an omission (§1.135(c)), 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 reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;
>
> (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;

With an exception provided in § 1.704(d) that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section 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 by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Specifically, the response filed on December 3, 2003 was filed to correct an omission in the response filed on November 5, 2003. See Notice of Non-Responsive Amendment mailed November 18, 2003. Pursuant to 1.704(c)(7), a reduction of 28 days should have been entered for this delay (from November 6, 2003 to December 3, 2003).

Moreover, after filing of the response on December 3, 2003, applicants filed an Information Disclosure Statement (IDS) on January 13, 2004 and another IDS on September 9, 2004. The record does not support a conclusion that either of these IDSs were expressly requested by the examiner. A review of the IDSs reveals that neither included a § 1.704(d) statement. Pursuant to 1.704(c)(8) a reduction of 281 days should have been entered for this delay (from December 4, 2003 to September 9, 2004).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is four hundred nine (409) days (718 days - (281 + 28 days)).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued. The Issued Patent will include any period of adjustment accrued for Office failure to issue the patent within four months of the date of payment of the issue fee and satisfaction of all outstanding requirements.

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 PAIR Screen

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JAN - 5 2005

Paper No. 5

In re Application of :
Hsin-Chu Chen : DECISION ON PETITION
Application No. 10/394,188 :
Filed: March 24, 2003 :
For: Portable Electric-Powered Tool :

This is a decision on the petition filed by facsimile transmission on October 27, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated March 11, 2004. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioner alleges that this application is not abandoned because petitioners did not receive the Office letter in question.

The Notice published at 1156 OG 53, as discussed in MPEP § 711.03(c), subsection entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", defines the minimum showing of fact that must accompany an allegation of nonreceipt of Office correspondence in support of an allegation that Office correspondence was not received. The Notice states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. **A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.** For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis added.)

The record shows that the correspondence address of record is to the inventor, and the record further shows that the Office letter in question was mailed to the correspondence address of record. The showing submitted by petitioner in support of the allegation of nonreceipt of the Office letter dated March 11, 2004 is directed to nonreceipt of the Office letter by a registered practitioner, Leong C. Lei. The attorney/agent roster maintained by the Office shows that the address for the practitioner is not the same as the correspondence address of record. Thus, the showing that the Office letter dated March 11, 2004 was not received by the registered practitioner has not been shown to be relevant to nonreceipt of the office letter in question at the correspondence address of record. Therefore, there is presently no basis upon which to find that petitioner did not receive the properly addressed Office letter dated March 11, 2004 at the correspondence address of record. Accordingly, the holding of abandonment cannot, at present, be withdrawn.

Petitioner may file a renewed petition, without fee, addressing the matters raised above. The renewed petition should be directed to Technology Center 3700 at the address in the letterhead above, with no mail stop specified. The renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

As a courtesy, a copy of this decision will be mailed to Leong C. Lei at the address shown by the attorney/agent roster, but no further communications will be mailed to other than the correspondence address of record in this application. The application is being stored as an abandoned file pending further action by petitioners.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Hsin-Chu Chen
P.O. Box 82-144 VIA AIR MAIL
Taipei,
TAIWAN

cc: Leong C. Lei
A and J Intrntl Patent Office
1867 Ygnacio Valley Road
Pmb 1008
Walnut Creek, CA 94958

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LEONG C. LEI
PMB#1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of :
Hsin-Chu Chen :
Application No. 10/394,188 :
Filed: March 23, 2004 : ON PETITION
Title of Invention: PORTABLE :
ELECTRIC-POWERED TOOL :

This is a decision on the Renewed Petition to Withdraw the Holding Abandonment, filed February 18, 2005. The petition is properly treated 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 timely reply to the non-final Office action, mailed March 11, 2004. The Notice set a three (3) month period for reply. Extensions of time were available under 37 CFr 1.136(a). No reply having been received, the above-identified application became abandoned June 12, 2005. A Notice of Abandonment was mailed October 4, 2004.

Petition filed October 27, 2004

Applicant filed a petition on October 27, 2004, wherein Applicant averred that he did not receive the Office action. The petition was dismissed in a Decision mailed January 5, 2005. The Decision dismissing the petition noted that the correspondence address of record differed from the address in the petition. As such, Applicant had failed to demonstrate any relationship between Applicant's asserted non-receipt of the Office action and the mailing of the Office action by this Office to the Correspondence address of record.

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration wherein Applicant provides that "[t]he correspondence address of record for the inventor is, in fact, a rented P.O. Box address to the registered practitioner."

Based upon Applicant's assertion, that the correspondence address of record for the inventor is, in fact, a rented P.O. Box address to the registered practitioner, and in view of the supporting documents filed in the October 27, 2004 petition, Applicant has demonstrated by a preponderance of the evidence that the non-final Office action was not received.

The Notice of Abandonment is hereby withdrawn.

No petition fee has been charged, and none is due.

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

The application file is being referred to Technology Center 3721 for re-mailing of the non-final Office action.

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

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Paper No. 5

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

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JUL 18 2003

OFFICE OF PETITIONS

In re Application of
Morishita et al.
Application No. 10/394,189
Filed: March 24, 2003
Attorney Docket No. HITA.0353

ON PETITION

This decision concerns the "Petition to Amend the Specification and to Accord the Original Filing Date" filed on June 13, 2003, which in essence requests that certain drawings be accorded the application filing date of March 24, 2003. The petition is being properly treated as a petition under 37 CFR 1.53(e).

The petition is **GRANTED.**

On March 24, 2003, this application was filed. However, on May 20, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of March 24, 2003, and advising Applicants that Figures 10A-10D described in the specification appeared to have been omitted.

In response, the instant petition was filed, pointing out that no drawings were omitted, and that the references "Figures 10A-10D" in the specification should have been to Figure 10. Furthermore, although the "Notice of Omitted Items" did not mention a Figure 13, the petition states that the reference in the specification to a "Figure 13" was meant for Figures 13A-13D. The petition attributes the above to typographical errors, and encloses a Preliminary Amendment to correct these errors.

It is obvious from the petition that no drawings were actually missing on March 24, 2003. Rather, the references in the specification to drawings 10A-10D and 13 were incorrect. However, the "Notice of Omitted Items" mailed on May 20, 2003 was correct in stating that Figures 10A-10D described in the specification appeared to have been omitted, since no drawings labeled as Figures 10A-10D could be located among the drawings filed on March 24, 2003. The "Notice of Omitted Items" was thus properly mailed and will not be withdrawn.

Accordingly, the petition is granted to the extent that drawings labeled as Figures 10, 13A-13D are accorded the requested filing date of March 24, 2003.

The $130 petition fee will not be refunded since the instant petition was not necessitated by any error on the part of the USPTO.

The application is being returned to the Office of Initial Patent Examination for correcting the PTO records to indicate that no drawings were omitted from the application as filed on March 24, 2003. Thereafter, the file will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

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

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MAR 2 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takashi Takeda et al :
Application No. 10/394,198 :
Filed: March 24, 2003 :
Attorney Docket No. 115224

This is a decision on the petition, filed March 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 January 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2851 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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ALEXANDRIA, VA 22313-1450
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Paper No. 5

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Takashi Hayashihara :
Application No. 10/394,207 :
Filed: March 24, 2003 :
Attorney Docket No. 09141.0001

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 3682.

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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FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

CONNOLLY BOVE LODGE & HUTZ
Suite 800
1900 M Street, N.W.
Washington, DC 20036-3425

In re Application of :
Pascal Latreille et al :
Application No. 10/394,219 :
Filed: March 24, 2003 :
For: PROCEDURE AND MEANS FOR REPALCING AND PROCEDURE FOR REPAIRING A SECTION OF A PIPE IN THE PRIMARY CIRCUIT OF A NUCLEAR REACTOR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition under 37 CFR 1.181 for withdrawal of holding of abandonment dated October 26, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the restriction/election requirement mailed January 28, 2004, which set a one-month shortened statutory period. The application became abandoned on July 28, 2004, and a Notice to that effect was mailed on October 5, 2004.

Petitioner contends that a response was filed on February 26, 2004 by facsimile transmission. In support thereof, petitioner submits a copy of the response with a facsimile transmission report by Vicki G. Pruitt, and dated February 26, 2004. Petitioner also has submitted a showing of a successful transmission on February 26, 2004. The facsimile report can not be accepted as sufficient evidence of a timely filing by facsimile transmission.

Petitioner's evidence of a timely filing based on a Certificate of Transmission is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

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

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

Neither requirement (1) or (2) above has been met by the petition. With regard to condition (1) there is no indication that the Certificate of Transmission belongs to application 10/394,219. Condition (2) requires a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate. In the instant case, a personal statement by Vicki G. Pruitt the certifying official of the facsimile is required.

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

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

KJD/jwk: 2/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CONNOLLY BOVE LODGE & HUTZ
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Pascal Latreille :
Application No. 10/394,219 : DECISION GRANTING PETITION
Filed: March 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 20513-00590-US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement 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 3641.

Karen Creasy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6641256	2003-11-04	10394239	2003-03-24	ZF157US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/ks/	Date (YYYY-MM-DD)	2008-02-06
Name	Kia Silverbrook		
Enter Reel and Frame Number		Remove	
Reel Number	013905	Frame Number	0157
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6641256
Issue Date: November 4,2003
Application No. 10394239
Filed: March 24,2003
Attorney Docket No. ZF157US

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

This is a decision on the electronic petition, filed February 5,2008 ,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 February 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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P.O. BOX 1450
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Paper No. None

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Neil Hutton et al. :
Application No. 10/394,242 :
Patent No. 6,907,635 :
Filed: March 24, 2003 :
Issue Date: June 21, 2005 :
Attorney Docket No.: 12M-29 US :
Title: BEACON DOCKING SYSTEM :
WITH VISUAL GUIDANCE DISPLAY

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

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

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

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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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R. ALAN BURNETT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/394,280 : DECISION ON PETITION
Filed: March 21, 2003 : TO WITHDRAW
Attorney Docket No. 005306.P099 : 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 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Talor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/394,280	03/21/2003	Wen-Hsin Lee	005306.P099

CONFIRMATION NO. 1357

OC000000020495621

OC000000020495621

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/19/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- 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).

April M Wise

APRIL M WISE
OPL (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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JONATHAN N. GELD
CAMPBELL STEPHENON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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JUL 30 2009

OFFICE OF PETITIONS

In re Application of :
Wen-Hsin Lee et al. :
Application No. 10/394,280 : DECISION ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. OIC0243US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment under 37 CFR 1.121, mailed July 30, 2007. The Notice set a one month or thirty (30) day from the mail date of the Notice. No extension of time under the provision of 37 CFR 1.136 was available. Accordingly, the Application became abandoned on August 31, 2007.

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

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

This application is being referred to Technology Center AU 2174 for appropriate action by the Examiner in the normal course of business on the reply received

/David Bucci/
Petitions Examiner
Office of Petitions

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Tsai Chen Hsien, et al. :
Application No. 10/394,291 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 072841-0157 :

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 undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/9/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10394309 Patent No.: 6794287

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**.

Valerie Davis

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Steven Loke — SPE

2818 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED

JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Po-Cheng Chen :
Application No. 10/394,310 : DECISION GRANTING FILING
Filed: March 20, 2003 : DATE UNDER 37 CFR 1.10(d)
Attorney Docket No. P/3491-67 :

This is a decision on the petition, filed June 24, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, rather than the presently accorded date of March 21, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 20, 2003, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 162747816US, the same Express Mail number which appears on the transmittal letter for the instant application, bearing a somewhat illegible "date-in", but which appears to be March 21, 2003. Additionally, the petition is accompanied by a copy of applicant's log of Express Mail entitiled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post," which discloses that an Express Mail package bearing label number EV 162747816 was signed for by a USPS employee on March 20, 2003. The petition is further accompanied by a statement from the USPS which states that the package bearing Express Mail label No. EV 162747816US was delivered on March 21, 2003 at 11:20 AM in Arlington, VA 22202 and signed for by B. Anderson. In view thereof, applicant requests that this application be accorded a filing date of March 20, 2003.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service

> (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (emphasis supplied).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS (emphasis supplied).

The evidence submitted satisfies the showing required by 37 CFR 1.10(d) in establishing that this application was deposited by Express Mail on March 20, 2003. Further, an independent search was made of the USPS Express Mail Track and Confirm records which resulted

in a finding that the package in question was in fact accepted on March 20, 2003 at the New York, NY USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on March 20, 2003. Accordingly, the instant application is entitled to a filing date of March 20, 2003, and has been so accorded.

Any inquiries specific to this decision should be directed to Frances Hicks at (703) 305-8680.

This application file is being returned to the Office of Initial Patent Examination for processing with a filing date of March 20, 2003 and for mailing of a corrected Filing Receipt. Afterwards, the application will be forwarded to Technology Center AU 3682 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL J. MEANEY, JR.
P. O. BOX 22307
SANTA BARBARA CA 93121

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Daniel J. Meaney :
Application No. 10/394,311 :
Filed: March 21, 2003 :
Attorney Docket No. 5550.2 102936/042 :

ON PETITION

This is a decision on the petition filed February 10, 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 December 9, 2004 for failure to timely pay the issue fee on or before December 8, 2004. Accordingly, a Notice of Abandonment was mailed February 1, 2005.

The issue fee, petition fee, publication fee and order for advance copies, 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
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Paper No. 5

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of	:
Yukihiko Inagaki	:
Application No. 10/394,313	: DECISION GRANTING FILING
Filed: March 20, 2003	: DATE UNDER 37 CFR 1.10(d)
Attorney Docket No. P/1596-63	:

This is a decision on the petition, filed June 24, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, rather than the presently accorded date of March 21, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 20, 2003, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 162747820US, the same Express Mail number which appears on the transmittal letter for the instant application, bearing a "date-in" of March 21, 2003. Additionally, the petition is accompanied by a copy of applicant's log of Express Mail entitiled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post," which discloses that an Express Mail package bearing label number EV 162747820 was signed for by a USPS employee on March 20, 2003. The petition is further accompanied by a statement from the USPS which states that the package bearing Express Mail label No. EV 162747820US was delivered on March 21, 2003 at 11:20 AM in Arlington, VA 22202 and signed for by B. Anderson. In view thereof, applicant requests that this application be accorded a filing date of March 20, 2003.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service

> (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (emphasis supplied).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS (emphasis supplied).

The evidence submitted satisfies the showing required by 37 CFR 1.10(d) in establishing that this application was deposited by Express Mail on March 20, 2003. Further, an independent search was made of the USPS Express Mail Track and Confirm records which resulted

in a finding that the package in question was in fact accepted on March 20, 2003 at the New York, NY USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on March 20, 2003. Accordingly, the instant application is entitled to a filing date of March 20, 2003, and has been so accorded.

Any inquiries specific to this decision should be directed to Frances Hicks at (703) 305-8680.

This application file is being returned to the Office of Initial Patent Examination for processing with a filing date of March 20, 2003 and for mailing of a corrected Filing Receipt. Afterwards, the application will be forwarded to Technology Center AU 2851 for examination in due course.

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

UNITED STATES POSTAL SERVICE

Track & Confirm

Shipment Details

You entered EV16 2747 820U S

Your item was delivered at 11:20 am on March 21, 2003 in ARLINGTON, VA 22202 to US PTO 2327. The item was signed for by B ANDERSON.

Here is what happened earlier:

- ARRIVAL AT UNIT, March 21, 2003, 11:01 am, ARLINGTON, VA 22202
- ACCEPTANCE, March 20, 2003, 7:43 pm, NEW YORK, NY 10199

Track & Confirm

Enter label number:

Track & Confirm FAQs Go>

Notification Options

Track & Confirm by email What is this? Go>

Request Proof of Delivery What is this? Go>

POSTAL INSPECTORS
Preserving the Trust

site map contact us government services
Copyright © 1999-2002 USPS. All Rights Reserved. Terms of Use Privacy Policy

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

Mailed JUN - 6 2003

UR
Paper NO. 3

In re Application of
Derek Fisher
Serial Number: 10/394,317
Filed: March 21, 2003
For: LIPOSOMES

DECISION ON
PETITION UNDER
M.P.E.P. 708.02,II

This is in response to the petition filed, March 21, 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.**

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

Fish & Richardson, PC
4350 La Jolla Village Drive, Suite 500
San Diego, CA 92122

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JJGJr. 01-04

Paper No. 24

JERRY H. NOH
SUITE 2741
3435 WILSHIRE BLVD
LOS ANGELES CA 90010

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JAN 2 9 2004

OFFICE OF PETITIONS

In re Application of
Cho, et al.
Application No. 10/394,333
Filed: 21 March, 2003
Attorney Docket No. A378-JN

ON PETITION

This is a decision on the renewed petition filed on 16 June, 2003, treated as a petition under 37 C.F.R. §1.53. which requests that Figures 2b and 5 be accorded a filing date of 21 March, 2003.

For the reasons set forth below, the petition under: 37 C.F.R. §1.53 is **DISMISSED**.

The application was deposited on 21 March, 2003.

On 21 May, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" and indicated that, while a filing date was granted for the application, it appeared that Figures 2b and 5, as described in the specification, were omitted.

On 16 June, 2003, Petitioner submitted copies of drawings he identifies as Figures 2b and 5 and the instant petition seeking a filing date therefor. Petitioner states:

> Enclosed as Exhibit A is a copy of the postcard acknowledgement showing receipt of the application. Also enclosed as Exhibit B is a copy of the Utility application transmittal showing that 9 pages of formal drawing were mailed. Should figures 2b and 5 not have been mailed then there would have been only 7 pages of drawings. The transmittal indicates 9 pages of formal drawings which must include figures 2b and 5 to constitute said 9 pages.

The copy of the document identified as Petitioner's postal receipt card states as follows:

> The official stamp of USPTO will herein acknowledge (sic) receipt of Applicant Young Kook Cho Cap Device for Mixing Different Kinds of Substances Separately Kept Therein Within a Container
>
> Patent application, Declaration and Power of Attorney (signed), $375.00 filing fee check, small entity statement, mailed 3/21/03 Express Mail ET886559645lUS
>
> JHN Atty dckt: A378-JN

Further, the document contains the USPTO date stamp of 3/21/03 with the application number and bar code.

As is evident from the foregoing, Petitioner's postal receipt card does not set forth even the very presence of drawings or figures, much less the number submitted or received.

Thus Petitioner's postcard receipt fails to demonstrate that Figures 2b and 5 were present upon filing the instant application.

Petitioner argues that his transmittal sets forth the items included in the application at mailing.

However, the test of Office receipt of materials alleged to have been submitted is the postal receipt card (see: MPEP §503) and not the transmittal sheet.

The Office does not doubt that on 21 March, 2003, Petitioner may have prepared for submission nine pages of drawings, including Figures 2b and 5, however, what was received by the Office did not include those figures and Petitioner's receipt card does not evidence otherwise.

Thus, without that definitive statement of receipt by the Office, Figures 2b and 5 cannot receive a 21 March, 2003, filing date.

Therefore, absent a sufficiently detailed postcard receipt, the petition must be and hereby is **dismissed**.

Further, Petitioner has failed to state definitively whether he accepts the 21 March, 2003, filing date without Figures 2b and 5, or accepts a filing date for the entire application with Figures 2b and 5 contemporaneous with the later receipt by the Office of Figures 2b and 5.

Because this petition was not occasioned by the Office, the fee will not be refunded.

The application is being returned to OIPE with the existing filing date of 21 March, 2003, without Figures 2b and 5 before being forwarded for examination in due course.

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

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

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Paper No. 4

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Fugel et al. :
Application No. 10/394,336 :
Filed: March 20, 2003 :
Attorney Docket No. :
P/4172-10 :

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OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR § 1.10(d), filed June 24, 2003, requesting that the above-identified application be accorded a filing date of March 20, 2003, rather than the presently accorded filing date of March 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on March 20, 2003. Petitioner has filed the appropriate documentary and corroborating evidence from the USPS demonstrating that March 20, 2003 was the date the correspondence was deposited Express Mail Post Office to Addressee.

In view of the above, the petition is **granted**. No fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to March 20, 2003.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FOUNDRY-NIXON PEABODY LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Benny J. Thottakkara	: DECISION ON REQUEST FOR
Patent Number	: 7586856	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/394,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1277** 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
WASHINGTON, D.C. 20231
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Paper No. 5

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Dieguez :
Application No. 10/394,350 : DECISION GRANTING
Filed: March 21, 2003 : PETITION
Attorney Docket No. X-1108 US :

This is a decision on the petition filed June 9, 2003, to establish that pages 3 and 4 of the drawings were part of the originally filed application.

On March 21, 2003, the application was filed.

On May 13, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that Figures 5-8 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 5-8 were deposited on March 21, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 4 sheets of drawings on March 21, 2003.[1] The Office file wrapper only contains two sheets of drawings. Therefore, petitioner has established the Office misplaced the two missing sheets of drawings. In view of the above, the petition is **granted**.

The copy of Figures 5-8 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed May 13, 2003, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 21, 2003, using the application papers filed on March 21, 2003, and using the copy of page 3 of the drawings (Figures 5, 6, 7) and page 4 of the drawings (Figure 8) filed on June 9, 2003.

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[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card 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." M.P.E.P. § 503.

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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Commissioner for Patents
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Alexandria, VA 22313-1450
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Daryl E. Spratley
339 Winter Park Court
Reno NV 89511

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of
David E. Spratley
Application No. 10/394,375
Filed: March 21, 2003
Title: Means for securing a hydration pack to a motorcycle fuel tank

DECISION ON PETITION

This is decision on the petition filed on September 16, 2005, to withdraw the holding of abandonment.

On August 20, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for response. In the absence of a timely reply, the application became abandoned on November 21, 2004. On June 3, 2005, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment because he did not receive the nonfinal Office action due to a USPTO error. Specifically, petitioner asserts that on January 15, 2004,[1] he mailed a "Change of Applicant's Address." Petitioner states that the USPTO mailed a "Notice of Customer Number Record Change" to his current address, indicating that the Office changed the address for this application. In support of his assertion, petitioner submits a "Change of Applicant's Address," dated December 17, 2003, and a Notice of Customer Number Record Change, mailed January 27, 2004.

Initially, the Office notes that the "Notice of Customer Number Record Change" notified petitioner that the USPTO accepted the request to change the correspondence address associated with Customer No. 37146. However, the Notice did not state that the Office changed the correspondence address associated with the Customer No. 37146 in this application. The Office further notes that an applicant must submit a separate notification in each application for which the applicant desires the USPTO to use the correspondence address associated with a specific Customer Number. Therefore, the Office will not automatically mail correspondence in an application to the address associated with a Customer Number until the applicant informs the USPTO to do such.

After reviewing the application file, the Office has not located the "Change of Applicant's Address," dated December 17, 2003, requesting that the USPTO change the correspondence address associated

[1] The Office has not located a "Change of Applicant's Address" with a mailing date of January 15, 2004, nor did petitioner submit a copy of that document with the present petition. Instead, petitioner submits a "Change of Applicant's Address" dated December 17, 2003.

with Customer No. 37146 for the above-identified application. The USPTO file is the official record of the papers filed in this application. A petitioner alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Petitioner may establish that he timely submitted the "Change of Applicant's Address" with the USPTO for this application in one of the following ways:

(1) If petitioner used US Postal Express Mail Service to submit the document, petitioner should file a petition under 37 CFR 1.10(c), (d) or (e) to accord a filing date to the document as of the date it was deposited in the USPS. With the petition, petitioner should submit a copy of an Express Mail Label or any other corroborating evidence, showing the desired date-in. Additionally, petitioner must include a copy of the document submitted to the USPTO, containing the Express Mail Label thereon.

(2) Petitioner may submit a copy of a returned, date-stamped postcard receipt, itemizing the "Change of Applicant's Address." See MPEP 503.

(3) Lastly, petitioner may submit a copy of a document, such as a transmittal letter, which accompanied the "Change of Applicant's Address," containing a proper certificate of mailing, and signed by the person who deposited the correspondence with the USPS with sufficient postage as First Class mail. See 37 CFR 1.8.

In the present case, petitioner did not submit any documentary evidence that petitioner filed the "Change of Applicant's Address" with the USPTO for this application. For this reason, petitioner has failed to show that he submitted a timely change of correspondence address in this application with the USPTO. Accordingly, the Office correctly mailed the nonfinal Office action to the address of record, as it existed on August 20, 2004.

In view of the above, the petition to withdraw the holding of abandonment is dismissed. If petitioner desires, petitioner may submit a request for reconsideration of this decision within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). With any request for reconsideration, petitioner should submit documentary evidence, as indicated above, to show that petitioner filed a timely change of correspondence address in **this** application. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." A copy of the nonfinal Office action accompanies this decision for petitioner's convenience.

In the alternative, petitioner may wish to seek relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay, instead of submitting a request for reconsideration of the decision. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee ($750.00 for a small entity), and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The appropriate form for filing a "Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" accompanies this decision for petitioner's convenience.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Nonfinal Office Action, Form PTO/SB/64 and the Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Patent No. 7,004,363	:	
Issue Date: February 28, 2006	:	
Application No. 10/394,383	:	NOTICE
Filed: March 21, 2003	:	
Attorney Docket No. A35655	:	

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 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.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-29-09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/394393 Patent No.: 7332164

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

SPE 1654 Art Unit

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Gschwind et al :
Application No. 10/394,433 : DECISION GRANTING PETITION
Filed: March 21, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 41165-9048 :

This is a decision on the petition, filed March 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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In re Application of	:	
Patel et al.	:	
Application No. 10/394,434	:	ON PETITION
Filed: March 21, 2003	:	
Attorney Docket No. PH01-03-01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of :
Sean Moshir et al. :
Application No. 10/394,447 : ON PETITION
Filed: March 20, 2003 :
Attorney Docket No. 077732-012402/US :

This is a decision on the petition filed April 22, 2009, under 37 CFR § 1.183 requesting waiver of 37 CFR § 1.64 as it relates to a concurrently filed petition under 37 CFR § 1.48(a)(2).

The petition under 37 CFR § 1.183 is **GRANTED**.
The petition under 37 CFR § 1.48 is **GRANTED**.

Petitioner seeks waiver of the rules such that the petition under 37 CFR 1.48 may be considered in the absence of the signatures on the required supplemental declaration of the originally named inventors. The application was filed naming Sean Moshir, Christopher A. H. Andrew, Jonathan M. Gordon and Michael Bacon and seeks under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Jack Lee Hudler, Leon Li, Noah Williams, Jonathan Lane, James J. Horton, and Dan Ferguson.

37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
(3) the fee set forth in 37 CFR 1.17 (h); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As the instant application is a continuation of application no. 09/957,673 and as the named inventors and the inventors sought to be added to correct the inventorship of the instant application are all named inventors of the parent application, the declaration

from parent application no. 09/957,673 has been filed herein to satisfy the requirement under 37 CFR 1.63.

The declaration in application no. 09/957,673 filed with the petition is signed by the added inventors, each with a statement that through error and without deceptive intent, the original application improperly set forth the inventorship except joint inventors Hudler, Horton and Ferguson. All of the original inventors have signed the supplemental declaration except joint inventor Moshir.

The petition is also accompanied by the proper petition fees and a consent of assignee however, while petitioners assert that the supplemental declaration has been forwarded to joint inventors Hudler, Horton, Ferguson and Moshir, they argue that to date they have not returned an executed copy of same. [1]

The supplemental declaration has been reviewed and found in compliance with 37 CFR §§ 1.67 and 1.63. In view of the foregoing evidence provided, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventors Hudler, Horton, Ferguson and Moshir is appropriate.

The petition bears proof that the 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. The inventorship of this application has been changed by the addition of Jack Lee Hudler, Leon Li, Noah Williams, Jonathan Lane, James J. Horton, and Dan Ferguson as joint inventors.

This matter will be referred to the Office of Patent Application Processing for issuance of a corrected filing receipt, correction of the file and PTO PALM data to reflect the inventorship as corrected. Thereafter, the matter will be referred to Technology Center 2192 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] The petition also bears proof that status under 37 CFR 1.47(a) was granted in parent application no. 09/957,673 as it relates to non-signing inventors Horton and Ferguson.

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NOV 24 2006

OFFICE OF PETITIONS

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

In re Application of :
Kendall B. Wallace et al. :
Application No. 10/394,449 : DECISION ON PETITION
Filed: March 21, 2003 : TO WITHDRAW
Attorney Docket No. 21355-002001 : 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 has been revoked by the assignee of the patent application on September 5, 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
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson PC**
P.O. Box 1022
Minneapolis, MN 55440-1022

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
GILES-KOMAR et al :
Application No.: 10/394,471 : DECISION ON PETITION
Filing Date: March 21, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: CEN-202-NP :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed January 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on May 1, 2006 (April 30, 2006 being a Sunday).

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 election of the invention; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed January 31, 2006 is accepted as having been unintentionally delayed.

The Notice of Abandonment mailed August 29, 2006 is hereby VACATED.

This application is being referred to Technology Center AU 1647 for appropriate action, if any, on the reply in due course.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/04/2005**

TO SPE OF : ART UNIT **2800 (2818)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,911,717**

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

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

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

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

Changes to Title, Col. 9 and Col. 10 approved.
Changes to claims (col. 11, line 33 thru last line of col. 12) are not approved. We cannot enter these claims thru a certificate of correction as these claims have never been considered.

[signature] 2823
SPE **Art Unit**

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Boston Scientific Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Duc Huu Lam	: DECISION ON REQUEST FOR
Patent Number	: 7620220	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/394,480	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1775** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OCT 25 2005

In re Application of	:	
Manuel Perucho	:	NOTICE OF WITHDRAWAL
Serial No. 10/394,485	:	FROM ISSUE
Filed: March 20, 2003	:	UNDER 37 CFR 1.313(b)
For: IDENTIFICATION OF NEOPLASMS BY DETECTION OF GENETIC INSERTIONS AND DELETIONS	:	

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 be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

Jasemine C. Chambers

Jasemine C. Chambers, Director
Technology Center 1600

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

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OFFICE OF PETITIONS

In re Application of
Tyler J. McKinley et al
Application No. 10/394,507
Filed: March 21, 2003
Attorney Docket No. P0812

: 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 November 21, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/367,033, filed March 22, 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 21, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/367,033, which was filed on March 22, 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. 60/367,033 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior 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 examiner of Technology Center AU 2621will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/367,033, filed March 22, 2002.

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

ATTACHMENT: Corrected Filing Receipt

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AUG 0 4 2005

Paper No. 07152005

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

In re Application of
Hirofumi KUBOTA
Application No. 10/394,509
Filed: March 24, 2003
Attorney Reference No. Q74753

DECISION ON PETITION

This is a decision on the petition filed September 14, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED.**

A Notice of Allowance and Fee(s) Due was mailed on April 13, 2004, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due was not received. The petition is accompanied by a copy of the file cover, a copy of the daily docket record for July 13, 2004 and a copy of the firm log of all incoming USPTO actions where the non-received Notice of Allowance and Fee(s) Due Office action would have been entered.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the 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),

Applicant has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due Office action was not received. Further, applicant has provided a copy of the daily docket record where the non-received Notice of Allowance and Fee(s) Due Office action would have been received had it been received and docketed.

Since applicant has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The period for response set therein will be reset to expire three months from the date these Notices are remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

James Dwyer

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
Bartkowiac et al.
Application No. 10/394,516
Filed: March 21, 2003
Attorney Docket No. ANMS-127US

: 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 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the petition.

The petition is **DISMISSED**.

The present 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).

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 1.78(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. In addition, the required reference must appear within the first sentence of the specification or in an Application Data Sheet (ADS), per 37 CFR 1.78(a)(2)(iii). See MPEP Section 201.11, Reference to Prior Application. The petition filed on July 17, 2006 was not accompanied by an amendment (or Application Data Sheet) which states the relationship of Application No. 10/176,965, filed June 21, 2002, to the instant application.

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 ADS or an amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

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

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

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

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

Any questions concerning this matter may be directed to George Dombroske at (571) 272-3283.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

28 SEP 2007

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NEW BRUNSWICK NJ 08933-7003

In re Application of	:	
Bartkowiac et al.	:	DECISION ON PETITION
Application No. 10/394,516	:	
Filed: March 21, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ANMS-127US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present 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).

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(s), 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) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing

date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) 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 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 George Dombroske at (571) 272-3283.

This application is being forwarded to Technology Center 1631 for appropriate action on the amendment after final filed 17 May 2007.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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SEP 0 8 2008

In re Application of :
Bartkowiak et al. : DECISION ON
Application No.: 10/394,516 :
Filing Date: March 21, 2003 : PETITION UNDER
Docket No.: ANMS5127USNP :
For: Microprocessors, Devices, And : 37 CFR 1.137(b)
Methods For Use In Analyte :
Monitoring Systems :

This is a decision on the Petition Under 37 CFR 1.137(b) filed on November 27, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 11, 2007, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on November 13, 2007 (since November 11, 2007 was a Sunday and November 12, 2007 was a holiday). No Notice of Abandonment was mailed.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination (and fee), paid the petition fee, and made the statement "that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." This is being construed as a 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3). Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 1631 for continued processing.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

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17 SEP 2008

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:	
Bartkowiac et al.	:	DECISION ON PETITION
Application No. 10/394,516	:	
Filed: March 21, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ANMS-5127USNP	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 23 October 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**, without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). However, the application whose priority is sought to be claimed, 10/963,853, was filed on October 13, 2004, which was later than the March 21, 2003 filing date of this application. 35 U.S.C. 120 provides that

> An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title **in an application previously filed** in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. ...

Since 35 U.S.C. 120 extends only to claiming benefit of a "previously filed" application, the benefit claim to the later-filed application 10/963,853 fails to comply with 35 U.S.C. 120.

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

By mail:	MAIL STOP PCT Attn: Office of PCT Legal Administration 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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
tel: (571) 272-3283

/Boris Milef/
Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701-3271

Mail Date: 04/21/2010

Applicant	: Gary R. Klimpel	: DECISION ON REQUEST FOR
Patent Number	: 7655241	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/394,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **379** 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/394,638	03/21/2003	3721	504	1972-C1-CIP	42	25	5

CONFIRMATION NO. 4408

CORRECTED FILING RECEIPT

OC000000012354248

Fred H. Zollinger, III
SAND & SEBOLT
Aegis Tower
4940 Munson Street, NW Suite 1100
Canton, OH 44718

Date Mailed: 04/14/2004

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)

William E. Post, Canton, OH;
Larry L. Lanham, Canton, OH;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/246,146 09/18/2002
which claims benefit of 60/323,611 09/19/2001

Foreign Applications

If Required, Foreign Filing License Granted: 04/24/2003

Projected Publication Date: 07/22/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for manufacturing a bag having an indent bottom wall

Preliminary Class

053

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

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of
CHAN et al
Application No.: 10/394,571
Filing Date: March 24, 2003
Attorney Docket No.: 235792US0CONT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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 above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 7, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time of two months under the provisions of 37 CFR 1.136(a) was obtained, a Notice of Appeal was filed and a second extension of time of three months was obtained. Accordingly, by operation of law, the above-identified application became abandoned on May 8, 2006 (May 7, 2006 being a Sunday).

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 and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed July 7, 2005 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 1772 for appropriate action, if any, on the reply in due course.

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

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

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AUG 18 2005

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON WI 54016

In re Application of	:
Martin Hinz	:
Serial No.: 10/394,597	: PETITION TO MAKE SPECIAL
Filed: March 21, 2003	:
Attorney Docket No.: HINZ100USA	:

This is in response to the petition filed May 6, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement. The delay in acting on this petition is regretted, however the deciding authority was only recently informed of its existence.

Applicant has made a statement accompanying the petition that "There is an infringing **product** actually on the market." (Emphasis added.) A review of applicant's claims shows that they are all method claims (of using a product) and are not directed to the product, *per se*. Thus the reason given is not supported by the application.

Therefor the petition 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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

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

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Paper No. 11

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Pope, Michael :
Application No. 10/394,617 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 02-1103 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 13, 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 14, 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 15, 2003. A Notice of Abandonment was mailed on June 17, 2004.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

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meb

Mailed: 2-28-07

In re application of :
Kotary et al. : DECISION ON
Serial No. 10/394,623 : PETITION
Filed: March 21, 2003 :
For: DEVICE FOR DISPENSING A VOLATILE LIQUID USING A WICK IN AN AMBIENT AIR STREAM

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed October 18, 2006.

The instant petition was filed on December 18, 2006. In the petition, it is urged that the final office action, mailed October 18, 2006, was improperly made final.

DECISION

The petitioner argues that the final office action, mailed October 18, 2006, introduced a new grounds of rejection over a combination of references including the Myny et al. reference, which has not been previously presented. The petitioner argues that the new grounds of rejection was not necessitated by the amendment since the amendment to the independent claim merely incorporates limitations from previously pending dependent claims. However, upon review of the claims, both current and previously presented, claim 1 presented in the response of August 9, 2006 incorporated the limitations of previous claims 20 and 21 (or 24 and 25), but do not require the mean pore size dimensions of previous claims 20 and 21 (or 24 and 25). Also, in previous claim sets, the limitations of claims 20 and 21 (or 24 and 25) were never required in the same claim. Therefore, the scope of finally rejected claim 1 was not previously presented or required, and thus the new grounds of rejection over the combination of references including the Myny et al. reference was necessitated by the amendment.

Furthermore, it is noted that a proper request for continued examination for the instant application has been entered on January 18, 2007 and forwarded to the examiner for consideration, thereby making the instant petition moot.

Accordingly the petition is **DISMISSED.**

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

Thomas P. Riley
McCracken & Frank LLP
200 W. Adams
Suite 2150
Chicago, Illinois 60606

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OFFICE OF PETITIONS

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA MA 01821

In re Application of :
John Charkoudian :
Application No. 10/394,627 : DECISION ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. MCA-643 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 3, 2009. The Notice of Abandonment was mailed May 21, 2009.

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

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.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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Paper No. 5

MAIL

AUG 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Steve Y. Cho
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of:
Hiroshi OHNO et al.
Application No. 10/394,631
Filed: March 21, 2003
For: DATA STORAGE SUBSYSTEM

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

This is a decision on the petition, filed 28 May 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

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

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

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

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

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

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

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

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

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

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Paper No. None

Fred H. Zollinger, III
SAND & SEBOLT
Aegis Tower
4940 Munson Street, NW Suite 1100
Canton OH 44718

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APR 0 5 2004
OFFICE OF PETITIONS

In re Application of	:	
William E. Post et al.	:	
Application No. 10/394,638	:	DECISION ON PETITION
Filed: March 21, 2003	:	
Attorney Docket No. 1972-C1-CIP	:	
Title: METHOD AND APPARATUS FOR MANUFACTURING A BAG HAVING AN INDENT BOTTOM WALL	:	

This is a decision on the Petition under 37 C.F.R. §1.10(d) received June 9, 2003, requesting that the application be accorded a filing date of March 21, 2003.

Shortly after March 24, 2003, the above-identified amendment was received in the Office. The Office of Initial Patent Examination mailed petitioner's filing receipt, indicating that the application had been accorded a filing date of March 24, 2003.

In response, on June 9, 2003, applicants filed the present petition. Petitioners have included a copy of the certificate of mailing, Express Mail Label having a number of EV256712055US[1], and a print-out of the tracking results from the USPS's intranet. Applicants request that the application be accorded a filing date of March 21, 2003.

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Petitioner has alleged that the application was deposited on March 21, 2003, and the Patent Office has incorrectly assigned a filing date of March 24, 2003 to the instant application.

Regarding the certificate of mailing which has been included with the instant petition, Petitioner is advised that certificate of mailing practice does not apply, pursuant to 37 C.F.R. §1.8(a)(2)(i)(A).

Regarding the Express Mail label, it is noted that the label does not contain a "date-in." A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line.

Regarding the print-out of the tracking results from the USPS's intranet, it is noted that the tracking results show that the package was received on March 21, 2003.

Although the application received a filing date of March 24, 2003, the evidence is convincing that the application papers were filed on March 21, 2003, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of March 21, 2003.

Accordingly, the petition is **GRANTED.**

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 21, 2003, **as well as the mailing of a corrected filing receipt.**

It is further noted that Petitioner has submitted a petition fee along with this petition. There is no fee associated with the filing of a petition under 37 C.F.R. §1.10. No petition fee is required. If the petitioner wishes to have the $130.00 petition fee refunded, he should submit a request for refund to the Office of Finance[2]. A copy of this decision should accompany any such request.

---

2 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.

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

filed please contact the Refund Branch directly at 703-305-4229.

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Takashi Oba et al :
Application No. 10/394,645 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. P07887US00/RFH :

This is a decision on the petition, filed October 27, 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 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1755 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : November 4, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/394,645

Applicant(s) :Takashi Oba et al
Application No. :10/394,645
Filed :March 24, 2003

The above-identified application has been assigned Patent No. 6,815,387 and an issue date of November 9, 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 November 9, 2004:

"All reference to Patent No. 6,815,387 to Takashi Oba et al of Japan for DIELECTRIC CERAMIC COMPOSITION AND DIELECTRIC RESONATOR MADE FROM THE COMPOSITION appearing in the Official Gazette of November 9, 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

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

Mail Date: 04/26/2010

Applicant	: Lamar E. Priester III	: DECISION ON REQUEST FOR
Patent Number	: 7645606	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/394,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **682** 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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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

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OCT 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Kozlowski, et al. :
Application No. 10/394,653 :
Filed: March 24, 2003 :
Attorney Docket No.: 0623.1170001/LBB/SJE :
27353-509
For: ARRAYS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

This application became abandoned as a result of petitioners' failure to file an appropriate follow-up submission to the Notice of Appeal, filed June 10, 2006, within two (2) months of the filing of the Notice of Appeal. As an appropriate follow-up submission was not filed within two (2) months of the filing of the Notice of Appeal and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 11, 2006. *See* MPEP 1215.04.

Applicants have submitted a proper reply in the form of an RCE and required $405.00 fee and a request to use an amendment previously filed on June 10, 2006 as the submission, an acceptable statement of the unintentional nature of the delay in filing a follow-up submission to the Notice of Appeal, and the $810.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1639 for consideration of the RCE filed on September 15, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 1-17-07

Attomey Docket No.: 44180

In re RAMIREZ et al.
Serial No.: 10/394,664
Filed: March 24, 2003

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

Title: OLEFINIC COMPOSITION WITH HIGH OCTANE DECREASING THE LEVEL OF POLLUTANTS EMISSIONS IN AUTOMOTIVE VEHICLES

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed March 24, 2003 to correct inventorship under 37 CFR 1.48(a) by adding the name of Esteban Lopez Salinas to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

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

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

David S. Abrams
Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036

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)
6684666	2004-02-03	10394668	2003-03-21	03.02.26.1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/William D. Taper/	Date (YYYY-MM-DD)	2008-03-12
Name	William Douglas Taper		

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. 6684666
Issue Date: February 3,2004
Application No. 10394668
Filed: March 21,2003
Attorney Docket No. 03.02.26.1

:

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

:

This is a decision on the electronic petition, filed March 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 6

The Firm of Hueschen and Sage
500 Columbia Plaza
350 East Michigan Avenue
Kalamazoo, MI 49007

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SEP 16 2003

OFFICE OF PETITIONS

In re Application of :
Parsons et al. :
Application No. 10/394,670 : DECISION ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. MERZ 34 US :

This is a decision on the petition filed July 21, 2003, requesting that the above-identified application be accorded a filing date of March 21, 2003, with page 62 of the specification as part of the original disclosure.

On March 21, 2003, applicants filed the above-identified application. On July 14, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of March 21, 2003, and advising applicants that page 62 of the specification appeared to have been omitted.

In response, on July 21, 2003, applicants filed the present petition, copies of the specification as filed, including page 62, and paid the $130.00 petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of a "Specification" in the United States Patent and Trademark Office (Office) on March 21, 2003. Applicants assert that page 62 of the specification was submitted on filing, as evidenced by the return postcard receipt, the copy of the certificate of mailing, and the letter of transmittal.

Upon review of the record, page 62 of the specification was not located among the application papers. Initially, the Office notes that the transmittal letter does not serve as prima facie evidence of the papers received in the Office on filing. Additionally, the postcard receipt did not properly itemize the number of pages of specification. Rather, applicants' postcard receipt merely listed "Specification" as being filed on March 21, 2003.

As set forth in Section 503 of the Manual of Patent Examining Procedure, in pertinent part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO. 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, applicant identifier, application 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), etc.
>
> **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, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO.** Each separate component should be specifically and properly itemized on the postcard.

Because the postcard receipt did not properly identify and itemize the pages of specification, it does not serve as prima facie evidence that page 62 of the specification was filed on March 21, 2003.

Accordingly, the petition is dismissed.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 21, 2003. Page 62 of the specification will NOT be entered at this time.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 22 2007

Paper No. 01172007

General Electric Company
CRD Patent Docket Rm 4A59
P.O. Box 8, Bldg. K-1
Schenectady NY 12301

In re Application of:
RANGARAJAN ET AL.
Serial No.: 10/394,673
Patent No.: 6,795,201
Filed: March 21, 2003
Attorney Docket No.: RD-27,643/USA-7

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.324

This is a decision on the petition filed December 6, 2004 to correct inventorship under 37 CFR 1.48(a), which is being considered as a petition under 37 CFR 1.324 due to the issuance of the application.

The petition is GRANTED.

In view of the papers filed December 6, 2004, 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 1.324. The inventorship of this application has been changed by adding the names:

Moitreyee Sinha – Clifton Park, NY

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

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090415

DATE : April 15, 2009

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 7,079,887

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

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

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

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

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

Note your decision on the appropriated box.

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

Comments:

The Certificate of Correction has been denied because it appears the "15" should have been a "17" and the "16" should habe been a "15".

/ANGELA D SYKES/
Supervisory Patent Examiner.Art Unit 3762

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090415

DATE : April 15, 2009

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 7,079,887

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

The Certificate of Correction has been denied because it appears the "15" should have been a "17" and the "16" should habe been a "15".

/ANGELA D SYKES/
Supervisory Patent Examiner.Art Unit 3762

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Richard Thompson Ellis	: DECISION ON REQUEST FOR
Patent Number	: 7590250	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/394,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1454** 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

WILLIAM B. WALKER
P.O. BOX 231838
ENCINTAS CA 92023-1838

In re Application of
Randel Dorian et al.
Application No. 10/394,801
Filed: March 21, 2003
Attorney Docket No. 426.P001

ON PETITION

This is a decision on the petition filed February 14, 2006, to withdraw the holding of abandonment of the above-identified application under 37 CFR 1.181.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," 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 May 5, 2005, for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 4, 2005. Accordingly, a Notice of Abandonment was mailed January 6, 2006.

It appears that petitioner indicated on the Issue Fee Transmittal (PTOL-85(b)) that they were no longer eligible to claim small entity status but still paid the issue fee at the small entity rate. Petitioner contends that an authorization to charge their credit card was submitted with the Issue Fee to cover any deficiencies in the fees submitted. Unfortunately, petitioner has not submitted any proof that the PTO-2038 was included with the issue fee transmittal.

Unfortunately, neither a certificate of mail pursuant to 37 CFR 1.8[1], or a postcard

[1] 37 CFR 1.8(b) states that 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 by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding 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

receipt pursuant to MPEP 503[2] was used and either would have been accepted as proof of filing but not an express mail label to prove the contents of the package mailed on April 14, 2005.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a PTO-2038 was filed on April 14, 2005 to cover the deficiency in the issue fee submitted. Since the proof submitted does not substantiate a finding that the failure to pay the fees due was through error of the USPTO, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

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)).

---

(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.

[2]The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO 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 USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

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

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/04/2010

Applicant	: Loellyn J. Cassell	: DECISION ON REQUEST FOR
Patent Number	: 7664913	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/394,819	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

William R. McClellan
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

COPY MAILED

NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Tran et al.	:	DECISION ACCORDING
Application No. 10/394,820	:	STATUS UNDER
Filed: March 21, 2003	:	37 CFR 1.47
Attorney Docket No. A0312.70462US00	:	
For: METHOD AND APPARATUS FOR BRANCH PREDICTION BASED ON BRANCH TARGETS	:	

This is in response to the petition under 37 CFR 1.47(a) filed October 16, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Thang M. Tran
1113 Elder Circle
Austin, TX 78733

COPY MAILED

NOV 1 8 2003

OFFICE OF PETITIONS

Letter

In re Application of :
Tran et al. :
Application No. 10/394,820 :
Filed: March 21, 2003 :
Attorney Docket No. A0312.70462US00 :
For: METHOD AND APPARATUS FOR BRANCH PREDICTION BASED ON BRANCH TARGETS :

Dear Mr. Tran:

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: William R. McClellan
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

WRM

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Paper No. 6

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NOV 18 2003

OFFICE OF PETITIONS

William R. McClellan
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

In re Application of :
Tran et al. :
Application No. 10/394,820 :
Filed: March 21, 2003 :
Attorney Docket No. A0312.70462US00 :
For: METHOD AND APPARATUS FOR BRANCH PREDICTION BASED ON BRANCH TARGETS :

DECISION ACCORDING STATUS UNDER 37 CFR 1.47

This is in response to the petition under 37 CFR 1.47(a) filed October 16, 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

	Initials
Confirmation	☐
Docketing	☑

11/26/03

WRM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/08/10

TO SPE OF : ART UNIT 3624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10394831 Patent No.: 7552067

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

SPE RESPONSE FOR CERTIFICATE OF CORRECTION
Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: None

/Kambiz Abdi/ — **SPE**

Acting for 3624 — **Art Unit**

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

MAILED

JUL 02 2003

Director's Office
Group 3700

David L. Neary, P.E.
711 Manchester Trail Drive
Spring, TX 77373

In re application of
David L. Neary

Application Number: 10/394847
Filed: March 22, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **PARTIALLY-OPEN HEATER CYCLE WITH HIGH THERMAL EFFICIENCIES AND ULTRA-LOW EMISSIONS**

This is a decision on the petition filed on May 14, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only 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: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 07/01/03

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Leong, et al. :
Application No. 10/394,917 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 112056-0114 :
For: A TECHNIQUE FOR COHERENT SUSPENSION OF I/O OPERATIONS IN A RAID SUBSYSTEM

This is a decision on the petition under 37 CFR 1.181, filed January 12, 2007, to withdraw the holding of abandonment. In addition, the decision addresses the correspondence entitled, "REQUEST FOR REFUND OF REVIVAL FEE," filed January 12, 2007, which will be treated under 37 CFR 1.181, as well.

The petitions under 37 CFR 1.181 are **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the April 3, 2006 non-final Office action, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on July 4, 2006. A Notice of Abandonment was mailed on December 22, 2006.

Petitioners allege that the April 3, 2006 non-final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

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

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the April 3, 2006 non-final Office action been received. In addition, practitioner referenced the docket record in the petition and stated that a review of the application's file jacket and docket record for the April 3, 2006 non-final Office action was fruitless.

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

The $1,500.00 petition fee submitted with the petition to withdraw the holding of abandonment is unnecessary and will be credited to deposit account no. 03-1237.

Petitioners have filed a response to the April 3, 2006 non-final Office action with the present petition. As such, there is no need to re-mail the April 3, 2006 non-final Office action with a new period set for reply.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2113 for consideration of the amendment filed on January 12, 2007.

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

APR 01 2004

ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282

In re Application of :
Kris Dines et al :
Serial No.: 10/394,945 : DECISION ON PETITION
Filed: March 21, 2003 :
For: Mammography Method and Apparatus :

This is in response to applicants' petition filed on March 21, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). Therefore the petition is GRANTED.

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES 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

PENINSULA IP GROUP
A Professional Law Corporation
Suite 101
2290 North First Street
San Jose CA 95131

COPY MAILED

AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Heger
Application No. 10/394,947
Filed: March 21, 2003
Attorney Docket No. HEGR1840
For: WIRELESS SWIMMING POOL WATER LEVEL SYSTEM

DECISION ON PETITION

This is a decision on the petition, filed July 22, 2003 (certificate of mailing date July 18, 2003), requesting that Figures 7a and 7b be accorded a filing date of March 21, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) 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 1.53(e)".

The application was filed on March 21, 2003. On June 18, 2003, the Office of Initial Patent Examination mailed a " Notice to File Corrected Application Papers" (Notice) informing petitioner, *inter alia*, that Figures 7a and 7b, as described in the specification, appeared to have been omitted.

Petitioner requests a March 21, 2003 filing date for Figures 7a and 7b on the basis that the allegedly omitted sheet of drawings containing Figures 7a and 7b was received in the Patent and Trademark Office (PTO) on March 21, 2003.

In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 21, 2003 as the date of receipt. The postcard lists (in pertinent part): 2. Patent Application (copy) ... 4. Drawing - Formal (original).

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. The initial USPTO reviewers compare/contrast the application papers before them to the postcard receipt.

The itemized postcard in this case is **not** properly itemized. It does not specify the number of sheets of drawings filed on March 21, 2003. Therefore, the postcard receipt cannot be relied upon to prove a missing sheet of drawing was received.

Since Figures 7a and 7b cannot be proved to be part of the papers filed on March 21, 2003, the application cannot be accorded a March 21, 2003 filing date with Figures 7a and 7b as a part of the original disclosure of this application.

Petitioner may still submit a petition under 37 CFR 1.182 requesting a July 22, 2003 filing date for the application, which is the date that Figures 7a and 7b were filed in the Office. Any petition under 37 CFR 1.182 must be accompanied by a supplemental declaration in compliance with 37 CFR 1.63 and 1.64 referring to Figures 7a and 7b.

If petitioner does not select the above option, petitioner must either (1) file an amendment to the specification deleting references to Figures 7a and 7b prior to the first USPTO action in order to avoid further delays in the examination of the application or (2) in the alternative, submit Figures 7a and 7b as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on March 21, 2003. See MPEP 608.02.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 21, 2003. Figures 7a and 7b will **not** be considered part of the original filing.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions -- **E. Shirene Willis**

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

PENINSULA IP GROUP
A Professional Law Corporation
Suite 101
2290 North First Street
San Jose CA 95131

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NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Heger :
Application No. 10/394,947 : DECISION ON
Filed: March 21, 2003 : PETITION
Attorney Docket No. HEGR1840 :
For: WIRELESS SWIMMING POOL :
WATER LEVEL SYSTEM

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed October 6, 2003, requesting that Figures 7A and 7B be accorded a filing date of March 21, 2003.

The petition under 37 CFR 1.53(e) 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 1.53(e)".

The application was filed on March 21, 2003. On June 18, 2003, the Office of Initial Patent Examination mailed a " Notice to File Corrected Application Papers" (Notice) informing petitioner, *inter alia*, that Figures 7A and 7B, as described in the specification, appeared to have been omitted.

Petitioner requests a March 21, 2003 filing date for Figures 7A and 7B on the basis that the allegedly omitted sheet of drawings containing Figures 7A and 7B was received in the Patent and Trademark Office (PTO) on March 21, 2003.

Applicant's date stamped postcard receipt was not properly itemized. There is no mention of the number of sheets of drawing figures filed. Thus, the postcard receipt is not *prima facie* evidence of receipt of any specific number of sheets of drawings on the date stamped on the postcard. MPEP 503. In short, the postcard receipt cannot be relied upon to prove sheet 6 of 10 sheets of drawing figures was received on March 21, 2003

The present reconsideration petition is accompanied by a declaration of the attorney of record, Douglas A. Chaikin, who filed the application and attests to the fact that sheet 6 of drawing

figures was present.

The declaration by counsel states without equivocation or doubt that he assembled the application papers and determined that the formal drawings included sheet 6, which contained Fig. 7A and Fig. 7B.

The Office file is the official record of what was filed on March 21, 2003. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declaration supplied on October 6, 2003 was made more seven (7) months after the application was actually mailed.

Since petitioner has not proved by a preponderance of evidence that Figures 7A and 7B were filed on March 21, 2003, the application cannot be accorded a March 21, 2003 filing date with Figures 7A and 7B as a part of the original disclosure of this application.

As stated in the previous decision, petitioner may still submit a petition under 37 CFR 1.182 requesting a July 22, 2003 filing date for the application, which is the date that Figures 7A and 7B were filed in the Office. Any petition under 37 CFR 1.182 must be accompanied by a supplemental declaration in compliance with 37 CFR 1.63 and 1.64 referring to Figures 7A and 7B.

If petitioner does not select the above option, petitioner must either (1) file an amendment to the specification deleting references to Figures 7A and 7B or (2) in the alternative, submit Figures 7A and 7B as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on March 21, 2003. See MPEP 608.02.

The application is being returned to Technology Center 2800 with a filing date of March 21, 2003. Figures 7A and 7B will **not** be considered part of the original filing.

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place

Arlington, VA 22202
Attn: E. Shirene Willis

By Fax: (703) 308-6916
ATTN: Office of Petitions -- **E. Shirene Willis**

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
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Paper No. 13

PENINSULA IP GROUP
A Professional Law Corporation
Suite 101
2290 North First Street
San Jose CA 95131

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Heger
Application No. 10/394,947
Filed: March 21, 2003
Attorney Docket No. HEGR1840
For: WIRELESS SWIMMING POOL WATER LEVEL SYSTEM

: DECISION ON
: PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed December 9, 2003, requesting that Figures 7A and 7B be accorded a filing date of March 21, 2003.

The petition under 37 CFR 1.53(e) 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 1.53(e)".

The application was filed on March 21, 2003. On June 18, 2003, the Office of Initial Patent Examination mailed a " Notice to File Corrected Application Papers" (Notice) informing petitioner, *inter alia*, that Figures 7A and 7B, as described in the specification, appeared to have been omitted.

Petitioner requests a March 21, 2003 filing date for Figures 7A and 7B on the basis that the allegedly omitted sheet of drawings containing Figures 7A and 7B was received in the Patent and Trademark Office (PTO) on March 21, 2003.

The present reconsideration petition is accompanied by another declaration of the attorney of record, Douglas A. Chaikin, who filed the application and attests to the fact that sheet 6 of drawing figures containing Fig. 7A and 7B was present upon initial filing. As stated in the previous decision, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declaration supplied on December 9, 2003 was made more nine (9) months after the application was actually mailed.

The combined supplemental declaration and power of attorney signed by Inventor Heger is not acceptable because it does not state that the application was amended on July 22, 2003, which is the first date that Fig. 7A and 7B were present in this application file. Inventor Heger declares that, " Fig. 7A and 7B are the exact same figures which were filed with the original application, U.S. Serial No. 09/792,456, filed February 23, 2001, now issued U. S. Patent No. 6,568,264 and were created well prior to the filing date of this application, March 21, 2003."

It is not disputed that the drawings of Fig. 7A and 7B were created prior to March 21, 2003. What is disputed is when Fig. 7A and 7B were filed in application no. 10/394,947.

While it is true that petitioner claimed benefit of the prior application, there is no incorporation by reference statement found in the transmittal letter or in the specification. The mere reference in an application to another application is not an incorporation of anything contained in the other application into the referencing application. See In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980). Therefore, the fact that applicant claimed benefit in the papers filed on March 21, 2003 based on the prior application does not mean that applicant incorporated-by-reference into the papers filed in the present application on March 21, 2003 anything disclosed in the prior application.

Since petitioner has not proved by a preponderance of evidence that Figures 7A and 7B were filed on March 21, 2003, the application cannot be accorded a March 21, 2003 filing date with Figures 7A and 7B as a part of the original disclosure of this application.

The earliest date the Office has record of receiving Fig. 7A and 7B in the present application is July 22, 2003. This is the earliest filing date that can be accorded to the present application with Fig. 7A and 7B included.

As stated in the previous decision, petitioner may still submit a petition under 37 CFR 1.182 **requesting a July 22, 2003 filing date for the application**, which is the date that Figures 7A and 7B were filed in the Office. Any petition under 37 CFR 1.182 must be accompanied by a supplemental declaration in compliance with 37 CFR 1.63 and 1.64 referring to Figures 7A and 7B.

If petitioner does not select the above option, petitioner must either (1) file an amendment to the specification deleting references to Figures 7A and 7B[1] or (2) in the alternative, submit Figures 7A and 7B as a preliminary amendment. Any such amendment will, of course, be reviewed by the examiner for new matter compared to the original specification filed on March 21, 2003. See MPEP 608.02.

---

[1] It is noted that petitioner incorrectly referenced Fig. 7A and 7B as Fig. 6A and 6B in the Brief Description of the Drawings. This error should be corrected, as well.

The application is being returned to Technology Center 2800 with a filing date of March 21, 2003. Figures 7A and 7B will **not** be considered part of the original filing.

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

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

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :

DE MELLO COSTA, Marcus F. :
Application No. 10/394,954 : DECISION ON PETITION
Filed: March 21, 2003 : TO WITHDRAW
Attorney Docket No. **FORT-001/00US 303786-2001** : 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 02, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Thomas Croft on behalf of all attorneys of record who are associated with customer No. 22903. All attorneys/agents associated with the Customer Number 22903 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Marcus Fortunato at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MARCUS FORTUNATO**
C/O IMPACT INNOVATIONS, INC.
2470 ST. ROSE PARKWAY, SUITE 301
HENDERSON NV 89074

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **7/16/09**

TO SPE OF : ART UNIT **2625 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/394,970** Patent No.: **7,352,481**

Attn: Douglas Tran

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

* See claim 21

Ernest G. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: The Application number should be 10/394,970 not 11/394,970. The correction from the Request filed on 07/08/09 that is accepted by the Examiner.

/King Y. Poon/ — **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
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OFFICE OF PETITIONS

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

In re Application of :
Bomy Chen et al :
Application No. 10/394,975 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. 2102397-992450 :

This is a decision on the petition, filed August 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 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).

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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GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Bomy Chen et al	:	
Application No. 10/394,975	:	ON PETITION
Filed: March 21, 2003	:	
Attorney Docket No. 2102397-992450	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 12, 2004 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on October 18, 2004, with the issue fee being due on or before January 18, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of October 18, 2004, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

The above matter is being referred to Technology Center AU 2813 for appropriate processing of the RCE filed October 18, 2004, and consideration of the IDS submitted concurrently therewith.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Anthony H. Azure
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025-1026

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
DABRAL et al :
Application No.: 10/394,977 : DECISION ON PETITION
Filing Date: March 20, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 042390.P6943D :

This is a decision on the petition under 37 CFR 1.137(b), filed September 06, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 12, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time of one month under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, by operation of law, the above-identified application became abandoned on May 12, 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 a Request for Continued Examination, response, and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed January 12, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2822 for appropriate action, if any, on the reply in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application No. 10/394,996
To: Hopkins, et al.
Filed: March 21, 2003
For: REMOVAL OF EMBEDDING MEDIAL FROM BIOLOGICAL SAMPLES AND CELL CONDITIONING ON AUTOMATED STAINING INSTRUMENTS

DECISION GRANTING PETITION
37 CFR 1.84

This is a decision on the second renewed petition filed October 23, 2007 to accept color drawings in the application under 37 CFR 1.84(a)(2).

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.

Jill A. Warden
Supervisory Patent Examiner
Art Unit 1797
Technology Center 1700

A. Blair Hughes
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

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Paper No. 5

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

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DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of
Aschettino, Perry, Hey, He & Seggerson
Application No.: 10/394,998
Filed: March 21, 2003
Attorney Docket No.: 002558-068500US
For: ADAPTOR FOR DYE TERMINATOR REMOVAL APPARATUS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 10, 2003 (certificate of mailing date October 7, 2003).

The petition is **DISMISSED**.

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

The above-identified application was filed on March 21, 2003 without an executed declaration. On May 20, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath/declaration, the application filing fee, and a surcharge for their late filing. In response, on October 10, 2003 (certificate of mailing date October 7, 2003), petitioners filed the basic filing fee, a request for a three month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, and a Rule 47 petition with required fee. The petition is accompanied by a declaration by John J. Cassingham, Patent Counsel for the non-signing inventor's former employer. Attorney Cassingham's declaration and the exhibits to his declaration establish that non-signing inventor Bryan Perry, the non-signing inventor, was mailed and received multiple copies of the declaration and power of attorney form for his signature, but Mr. Perry has not returned the signed documents.

A grantable petition under 37 CFR 1.47(a) requires

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

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Attorney Cassingham's declaration and the exhibits to the declaration do not establish that Mr. Perry was mailed a copy of the complete application.

Mr. Perry must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Perry cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

When petitioners can show that Mr. Perry was mailed and received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

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 until 12/01/03:	Crystal Plaza Four, Suite 3C23 2201 South Clark Place Arlington, VA 22202
By hand post 12/01/03:	Crystal Plaza 1 Lobby 2011 South Clark Place Room 1B03 Arlington, VA 22202
By Fax until 12/01/03:	(703) 308-6916 ATTN: Office of Petitions
By FAX post 12/01/03:	(703) 872-9306 ATTN: Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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
Aschettino, Perry, Hey, He & Seggerson
Application No.: 10/394,998
Filed: March 21, 2003
Attorney Docket No.: 002558-068500US
For: ADAPTOR FOR DYE TERMINATOR REMOVAL APPARATUS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed January 26, 2004 (certificate of mailing date January 22, 2004).

The petition is granted.

Petitioners have shown that the non-signing inventor, Bryan Perry, 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 Attorney M. Henry Heines establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration within a set, reasonable period of time. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GE HEALTHCARE, INC.
IP DEPARTMENT
101 CARNEGIE CENTER
PRINCETON NJ 08540-6231

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DEC 12 2008

In re Application of :
Klaes Golman et al. :
Application No. 10/395,002 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. NIDN10353CON :

This is a decision on the petition, filed December 2, 2008,under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned on February 26, 2008, for failure to file a timely response to a Restriction Requirement mailed January 25, 2008, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed October 2, 2008.

Petitioner argues however that a response was filed on June 24, 2008 with a four month extension of time.

A search of the application file and the USPTO records reveals that in fact, a response was filed on June 24, 2008 and the extension of time fee was properly posted.

Accordingly, the response was timely and the Notice of Abandonment mailed October 2, 2008 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 3737 for treatment of the response filed June 24, 2008 as appropriate.

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

DEC 0 1 2009

In re Patent No. PIESCHEL, FRANK
Issue Date: February 8, 2005
Appl No.: 10/395,010
Filed: March 21, 2003
For: DUMPING UTILITY CART

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petitions filed February 26, 2008 and April 15, 2009 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.

D. Glenn Dayoan
Supervisory Patent Examiner
Art Unit 3612
Technology Center 3600

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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COMMISSIONER FOR PATENTS
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Paper No. 5

SMYRSKI & LIVESAY LLP
3310 AIRPORT AVENUE SW
SANTA MONICA CA 90405

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Jun Zhu, Alex Moraru, Teodor :
Zanetti, Franklin Tao, Dan L. :
Kilmer, Harald Hess, Tom Carr, : DECISION ACCORDING STATUS
Matt Bellis, Gustavo A. Pinto, : UNDER 37 CFR 1.47(a)
Patrick Rodney Lee :
Application No. 10/395,051
Filed: March 22, 2003
Attorney Docket No. KLAC0051

This is in response to the petition under 37 CFR 1.47(a), filed October 31, 2003.

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

The above-identified application was filed on March 22, 2003, without a fully executed oath or declaration and the statutory basic filing fee. Accordingly, on May 7, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring these missing items and fees, together with a surcharge for their late filing. This Notice set a two month extendable period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(a) on October 31, 2003, together with the statutory basic filing fee and surcharge. The petition was made timely by obtaining a three month extension of time and including a Certificate of Mailing dated October 27, 2003. Accompanying the petition was a declaration executed by joint inventors Jun Zhu, Alex Moraru, Teodor Zanetti, Franklin Tao, Dan L. Kilmer, Harald Hess, Tom Carr, Gustavo A. Pinto, and Patrick Rodney Lee, but with the signature block for joint inventor Matt Bellis left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a complete copy of the application papers was forwarded to Bellis on June 24, 2003. According to Rule 47 applicant, as of the date of the petition, no executed declaration from Bellis has been received.

On petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

DATE 10-3-07 APPLICATION NUMBER 10/325089

DOC CODE Ref Doc TC DOC DATE 10/4/07

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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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
John W. Martin	:	
Application No. 10/395,059	:	DECISION ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. P63577US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 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 July 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 27, 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 an amendment with remarks, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of July 26, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1732 for appropriate action in the normal course of business on the reply received February 23, 2007.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEIDE & MILLER, LTD.
7251 WEST LAKE MEAD BOULEVARD
SUITE 530
LAS VEGAS, NV 89128

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of :
Greg Ericson : DECISION ON PETITION
Application No. 10/395,063 : UNDER 37 CFR 1.137(b)
Filed: March 25, 2003 :
Attorney Docket No. ERICSO.0004P :

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 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 July 19, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 20, 2004. A Notice of Abandonment was mailed on February 11, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of a response to the non-final Office action of July 19, 2004, the petition fee of $750, and the required statement of unintentional delay have been submitted. Accordingly, the reply to the non-final Office action of July 19, 2004 is accepted as having been unintentionally delayed.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3611 for appropriate action in the normal course of business on the reply to the non-final Office action of July 19, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Takayuki Sakai et al :
Application No. 10/395,065 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 03180.0321 :

This is a decision on the petition, filed August 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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).

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 Mcy-06

SEAGATE TECHNOLOGY LLC
c/o MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Patent No. 6,884,526 :
Issued: 26 April, 2005 :
Application No. 10/395,099 : ON PETITION
Filed: 25 March, 2003 :
For: TEXTURED MAGNETIC MEDIA :
FOR USE WITH LOW-FLYING PADDED :
HEADS :

This is a decision on the paper filed on 10 August, 2005, which is treated as a petition under 37 CFR 1.182, to correct the first 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 fee for a petition under 37 CFR 1.182 is $400.00. The balance due will be charged to counsel's deposit account.

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

Telephone inquiries concerning this matter may be directed to the undersigned 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
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Alexandria, VA 22313-1450
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Paper No. 20060821

MAILED FROM
DIRECTORS OFFICE
SEP 13 2006
TECHNOLOGY CENTER 2800

Gregory J. Maier
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314

In re Application of Hirotaka Shigeno :
Application no. 10/395,100 : DECISION ON PETITION
Filed: 25 March 2003 :
Attorney Docket No. 235709US2 :

This is a decision on the petition filed under 37 C.F.R. §1.181(a)(3) on December 27, 2004 to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above-identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED** to the extent indicated below.

It is the petitioner's position that the Examiner's Reasons for Allowance dated June 24, 2004 incorrectly addressed the wrong invention and associated claims. We agree with the petitioner's position.

The application will be remanded back to the examiner. The Examiner's Reasons for Allowance will be corrected to address the invention and claims drawn to an array substrate for a display device.

Any inquiry regarding this decision should be directed to Sharon A. Gibson, Director, Technology Center 2800, at (571) 272-1650.

Sharon A. Gibson, Director
Technology Center 2800 – Semiconductors, Electrical and Optical Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 6 2006

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, D.C. 20036

In re Application of:
Shunji NAKAMURA
Serial No.: 10/395,106
Filed: March 25, 2003
Attorney Docket No.: **000407A**

DECISION ON PETITION

This is a response to the communication filed September 1, 2005. The communication has been treated as a petition under 37 C.F.R. § 1.181, requesting reconsideration of the objection to the drawings under 37 CFR 1.83(a) for not showing every feature of the invention specified in the claims. No petition fee is required.

The petition is **GRANTED**.

In support of the petition, it is asserted that "claims 27 and 29 are directed at a method for fabricating a semiconductor device wherein a protection film is formed on the upper surface of the lower electrode. MPEP §601.01(f) states that it is USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113. It is respectfully requested that this practice be applied to the present application."

35 U.S.C. §113 specifically states "[t]he applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented."

The claim limitations "a protection film [ ] formed on the upper surface of the lower electrode" and "anisotropically etching the conductive material with the protection film as a mask" are known or conventional process steps in the semiconductor art. Accordingly, it is not necessary for the drawings to show these particular claimed method steps "for the understanding of the subject matter to be patented."

The application has been forwarded to Publications Branch.

Bob Oberleitner, Director
Technology Center 2800
Semiconductor, Electrical and Optical Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

Wenderoth, Lind & Ponack, L.L.P.
2033 K Street N.W.
Suite 800
Washington, DC 20006-1021

In re application of
Herbert Isele
Application No. 10/395,108
Filed: March 25, 2003
For: HINGE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on December 2, 2003, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The 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).

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

In satisfaction of item (B) above, the petitioner states that "(s)hould the Office determine that all of the claims in the present application are not obviously directed to a single invention, Applicant hereby agrees to make an election without traverse as a prerequisite to the grant of special status."

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/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
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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

MAILED

OCT 0 8 2009

OFFICE OF PETITIONS

In re Application of
Seung-Mi Kang
Application No. 10/395,110
Filed: March 25, 2003
Attorney Docket No. P56813

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition filed September 30, 2009, which is being treated under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on June 30, 2009, with the issue fee being due on or before September 30, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

The matter is being referred to Technology Center AU 2421 for appropriate processing of the RCE filed September 30, 2009, and for consideration of the concurrently filed IDS.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/20/07 Paper No.: _____

TO SPE OF : ART UNIT 2817 Pascal Robert J (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/395116 Patent No.: 6806787

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: OK DR

SPE 2817 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

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Kiyoshi Kato et al :
Application No. 10/395,202 : DECISION GRANTING PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7137 :

This is a decision on the petition, filed October 14, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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]

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

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

OIPE JC10 FEB 1 0 PATENT & TRADEMARK

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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

1pm 10/18/04

COPY MAILED
OCT 15 2004
OFFICE OF PETITIONS

In re Application of :
Kiyoshi Kato et al :
Application No. 10/395,202 : DECISION GRANTING PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7137 :

This is a decision on the petition, filed October 14, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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]

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

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

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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

Paper No.: _____

DATE : 12/8/05

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6828827

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

The source terminal of the transistor, PM0 in 606 should be coupled to the voltage source, VDD.

James Cho

Richard Barnie

SPE

2819

Art Unit

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,828,827 B2

DATED : 12/7/2004

INVENTOR(S) : AZAM et al.

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

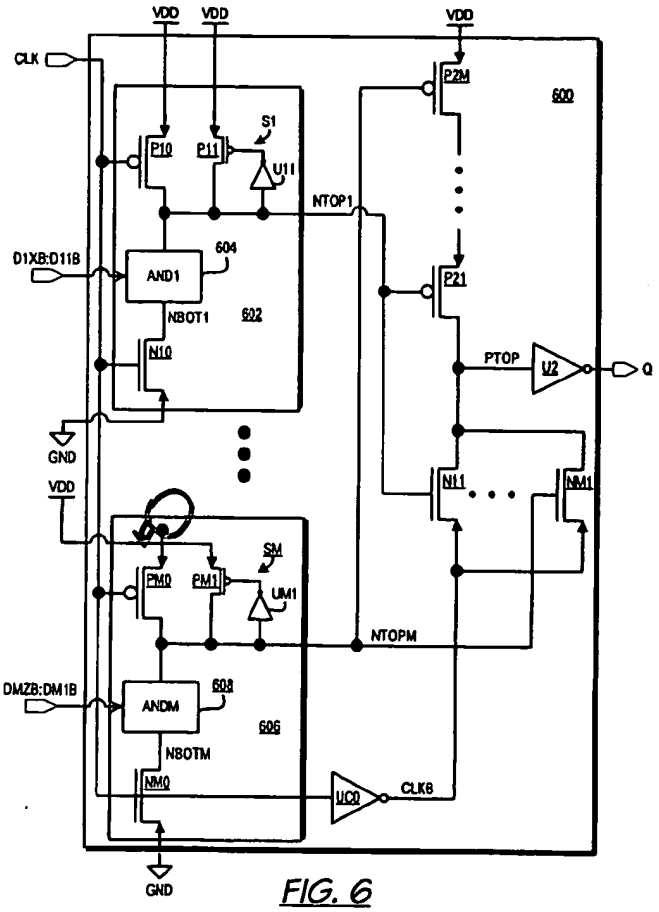

FIG. 6

MAILING ADDRESS OF SENDER:

RICHARD K. HUFFMAN (Registration No. 41,802)
1516 N Tejon St.
Colorado Springs, CO 80907

PATENT NO. 6,828,827

No. of additional copies

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

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

MAR 21 2005

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OIPE
MAR 15 2005
PATENT & TRADEMARK OFFICE

03/16/05 09/395213 cg-CH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number	US 6,828,827 B2	**Docket Number**	CNTR.2205
Date of Patent	12/7/2004	**Group Art Unit**	2819
Examiner	JAMES H. CHO	**Customer No.**	23669
Title	COMPLEMENTARY INPUT DYNAMIC LOGIC FOR COMPLEX LOGIC FUNCTIONS		
First Named Inventor	MIR S. AZAM		

CERTIFICATE OF CORRECTION TRANSMITTAL

Commissioner for Patents
Attn: Certificate of Corrections Branch
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request by the Patentee for issuance of a Certificate of Correction for the above-identified U.S. Patent under 37 CFR 1.323. The mistake for which a correction is sought is not the fault of the Patent and Trademark Office and is:

☒ of a clerical nature,
☐ of a typographical nature, or
☒ a mistake of minor character.

The correction does not involve changes which would either constitute new matter or require reexamination.

Transmitted herewith for filing are:

☒ Return Receipt Postcard (MPEP 503)
☒ Certificate of Correction fee required under 37 C.F.R. § 1.20(a)
☒ Certificate of Correction

Certificate
MAR 18 2005
of Correction

☒ A PTO-2038 Credit Card Payment Form authorizing a charge in the amount of **$100** is enclosed.

Details

In FIGURE 6, two mistakes have been noted after issuance of the patent. During prosecution of the corresponding application for patent, neither the undersigned practitioner nor the Examiner noted the mistakes. More specifically, element 606 was redundantly identified as element 602. The specification correctly refers to element 606 as such. Also, FIGURE 6 is corrected to show the gate of transistor N11 connected to node NTOP1, as is correctly described in the specification. As an artifact of electronic conversion of the drawing file during prosecution, the gate of N11 was incorrectly shown connected to the well of transistor P10.

03/17/2005 MAHMED1 00000016 6828827
01 FC:1811 100.00 OP

MAR 21 2005

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The Certificate of Corrections Branch is encouraged to contact the undersigned practitioner by telephone if any questions arise which would otherwise delay issuance of a Certificate of Correction.

EXPRESS MAIL LABEL NUMBER: **EO 004 227 994 US**
Date of Deposit: **3/15/05**
I hereby certify that this paper is being deposited with the U.S. Postal Service Express Mail Post Office to Addressee Service under 37 C.F.R. §1.10 on the date shown above and is addressed to Commissioner for Patents, Attn: Certificate of Corrections Branch, PO Box 1450, Alexandria, VA 22313-1450.

Respectfully submitted,
HUFFMAN PATENT GROUP, LLC

By _____
RICHARD K. HUFFMAN
Reg. No. 41,082
Tel.: (719) 575-9998

Date 3/15/05

MAR 21 2005

Copied from 09395213 on 04/20/2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/4/07

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: 6828827

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

OK to enter. JC

Rexford Barnie
SPE

2819
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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Paper No.

SUGHRUE, MION, ZINN,
MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

COPY MAILED

AUG 1 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,852,357	:	
Isoda et al.	:	DECISION ON REQUEST
Issue Date: February 8, 2005	:	FOR RECONSIDERATION OF
Application No. 10/395,223	:	PATENT TERM ADJUSTMENT
Filed: March 25, 2003	:	and
Attorney Docket No. Q74825	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d)" filed March 10, 2005. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 82 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of eighty-two (82) days.

On February 8, 2005, the above-identified application matured into U.S. Patent No. 6,852,357. The instant request for reconsideration filed March 10, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 0 days. This revised determination was calculated as follows: The initial determination of PTA of 72 days was increased by 10 days

for Office delay in issuing the patent, but reduced by 90 and 25 days for then applicants filing of a "miscellaneous incoming letter" on September 8, 2004 and a request for foreign priority on December 14, 2004, both filed after the mailing of a notice of allowance on August 5, 2004.

Patentees contend that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the Request for Priority Acknowledgment filed September 8, 2004 or the Request for Foreign Priority filed December 14, 2004. Patentees contend that these papers are examples of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentees' contention is not well taken. The OG Notice states that:

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

Neither a Request for Priority Acknowledgment or a Request for Foreign Priority is among those examples. Example (6) refers to a Comment on the Examiner's Reasons for Allowance and does not encompass the instant papers.

Nonetheless, it is concluded that under the circumstances neither the filing of the Request for Priority Acknowledgment or the Request for Foreign Priority should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). Patentees have shown that the priority document was submitted on June 2, 2003. However, as stated by patentees, the Notice of Allowability stated that none of the certified copies of the priority documents have been received. Moreover, the letters mailed after the Notice of Allowability, stating that the certified copies had been filed, were the first opportunity by patentees to address the matter. Thus, it is concluded that the reductions totalling 115 days are not warranted.

In view thereof, the patent term adjustment indicated on the patent should be eighty-two (82) 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 EIGHTY-TWO (82) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

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

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Phillip Martin Hallam-Baker	: DECISION ON REQUEST FOR
Patent Number	: 7676546	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/395,238	: OF WYETH
Filed	: 03/25/2003	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of :
Klaus Abraham-Fuchs et al. :
Application No. 10/395,246 :
Filed: March 25, 2003 :
Attorney Docket No. 32860-000493/US :

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 January 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 Donald J. Daley on behalf of all attorneys/agents associated with customer number 30593. All attorneys/agents associated with customer number 30593 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions in this case.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Klaus Abraham-Fuchs
Graslitzer Strasse 17 91058
Erlangen, Germany

cc: Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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
10/395,246	03/25/2003	Klaus Abraham-Fuchs	32860-000493/US

CONFIRMATION NO. 4806

30596
HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON, VA 20195

POWER OF ATTORNEY NOTICE

OC00000028184190

Date Mailed: 02/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/14/2008.

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

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Daisuke Shikuma et al. :
Application No. 10/395,250 : DECISION REFUSING STATUS
Filed: March 25, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. SPO-0208/CON :

This is in response to the petition under 37 CFR 1.47(a), filed February 7, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 25, 2003, naming Daisuke Shikuma and Kunihiro Komiya as joint inventors. The oath or declaration filed with the application was that of parent application, 10/075,455 filed February 15, 2002, of which the instant application is a continuation. The oath or declaration presented was signed by joint inventor Komiya for himself and on behalf of non-signing inventor Shikuma, however a review of the file record does not reveal that status under 37 CFR 1.47 was ever accorded in the parent.

A "Substitute Declaration and Power of Attorney", from the parent application, executed by both inventors was filed in the instant application on May 5, 2003, however, the oath or declaration submitted is not in compliance with 37 CFR 1.63 and .164 because the declaration contains noninitialed, nondated alterations to the date the oath or declaration was executed by joint inventor Shikuma. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule

1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Nevertheless, the instant petition seeks status under 37 CFR 1.47.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

With respect to the instant petition however, the petition lacks items (1) and (2).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners claim that Mr. Shikuma no longer lives at the last known address to which the application materials were sent, and subsequently returned as undeliverable. Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Shikuma, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Shikuma by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Mr. Shikuma cannot be found despite diligent efforts.

If Mr. Shikuma refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented.

Finally, with respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 02-2666 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of

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[1] MPEP 409.03(d).

the United States Patent and Trademark Office on October 12, 2004.

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
Office of Petitions

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

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Yukio Mori et al :
Application No. 10/395,251 :
Filed: March 25, 2003 :
Attorney Docket No. PRI-001

ON PETITION

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 May 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Tomoko Kuno :
Application No. 10/395,266 :
Filed: March 25, 2003 :
Attorney Docket No. 00862.001981.1 :

ON PETITION

This is a decision on the petition, filed September 29, 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 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2622 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SUITE 800
WASHINGTON, DC 20037

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Hiroshi Kamikawa :
Application No. 10/395,278 :
Filed: March 23, 2003 :
Attorney Docket No. Q73318

ON PETITION

This is a decision on the petition, filed March 30, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Mir Azam :
Application No. 10/395,305 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. CNTR.2203 :

This is a decision on the petition, filed March 10, 2005, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

The required fee for the filing of an RCE is $790 rather than the $780 submitted by petitioner.

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Further, petitioner is encouraged to submit the reply by facsimile to (571) 273-0025. This fax no. is only for petitions to withdraw from issue.

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

Karen Creasy

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

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Mir Azam :
Application No. 10/395,305 :
Filed: March 21, 2003 :
Attorney Docket No. CNTR.2203 :

ON PETITION

This is a decision on the communication, filed March 25, 2005, which is being treated as a renewed 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 February 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2819 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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COLORADO SPRINGS CO 80907-7449

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Mir Azam :
Application No. 10/395,306 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. CNTR.2206 :

This is a decision on the petition, filed March 10, 2005, under 37 CFR 1.313(c) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

The required fee for the filing of an RCE is $790 rather than the $780 submitted by petitioner.

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Further, petitioner is encouraged to submit the reply by facsimile to (571) 273-0025. This fax no. is only for petitions to withdraw from issue.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

In re Application of :
Mir Azam :
Application No. 10/395,306 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. CNTR.2206 :

This is a decision on the communication, filed March 25, 2005, which is being treated as a renewed 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 February 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2819 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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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Bernard Friedman et al :
Application No. 10/395,314 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. OIL 3.0-019 :

This is a decision on the petition, filed February 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 January 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 1761 will consider the request for continued examination under 37 CFR 1.114.

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

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

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WESTFIELD NJ 07090

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JUN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Bernard Friedman et al :
Application No. 10/395,314 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. OIL 3.0-019 :

This is a decision on the petition, filed June 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1761 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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800 W. 47TH STREET, SUITE 401
KANSAS CITY MO 64112

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OFFICE OF PETITIONS

In re Patent No. 6716022	:	
Issue Date: 04/06/2004	:	
Application No. 10/395322	:	NOTICE
Filed: 03/24/2003	:	
Attorney Docket No. 27263-CNT	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on November 17, 2008.

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) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/23/08

Paper No.: —

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/395372 Patent No: 7288568 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: _____

SPE — 1624 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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

OCT 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger M. LORIA	:	
Application No. 10/395,383	:	DECISION ON PETITION
Filed: March 21, 2003	:	TO WITHDRAW
Attorney Docket No. 100463-5004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Todd B. Buck on behalf of the attorneys of record associated with Customer No. 9629.

The attorneys of record associated with Customer No. 9629 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 until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROGER M. LORIA
3219 BROOK ROAD
RICHMOND, VA 23227

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
10/395,383	03/21/2003	Roger M. Loria	100463-5004

CONFIRMATION NO. 4068

POWER OF ATTORNEY NOTICE

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

OC000000038541318

Date Mailed: 10/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/22/2009.

- 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.

/dcgoodwyn/

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of :
Hajime Usami :
Application No. 10/395,386 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No.: 115543 :

This is a decision on the petition, filed May 15, 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 28, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2185 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

COPY MAILED

JUL 21 2003

OFFICE OF PETITIONS

In re Application of
Ching Man Stanley Tsui et al.
Application No. 10/395,401
Filed: March 21, 2003
Attorney Docket No. P/4076-40

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 7, 2003 to correct the filing date to March 21, 2003, rather than the presently accorded filing date of March 25, 2003.

Petitioner alleges that the application was deposited in Express Mail service on March 21, 2003. In support, on July 7, 2003, petitioner supplied a copy of Express Mail Label No. EV161824600US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is March 21, 2003. Additionally, petitioners have provided a copy of the express mail pick up statement which indicates that the package with the above identified express mail label was picked up on March 21, 2003.

In view of the above, the petition is granted and since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to March 21, 2003** and for issuance of a corrected filing receipt.

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

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

CALFEE, HALTER & GRISWOLD, LLP
1110 FIFTH THIRD CENTER
21 EAST STATE STREET
COLUMBUS OH 43215-4243

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Kieliszewski :
Application No. 10/395,402 :
Filed: March 24, 2003 :
Attorney Docket No. 27211/04097 :
For: NOVEL SYNTHETIC GENES FOR PLANT GUMS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2005 (certificate of mailing date July 21, 2005), to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 3, 2005, which set an extendable three month period for reply. No proper extensions of time being obtained, and no reply being received, the application became abandoned on April 4, 2005. A Notice of Abandonment was mailed on July 28, 2005.

A grantable petition pursuant to 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. The

Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner has not submitted a reply to the January 3, 2005 non-final Office action. Either an amendment in response to the Office action or a continuing application would be a proper reply.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time submitted with the petition on July 26, 2005 (certificate of mailing date July 21, 2005) was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account, no. 03-0172.

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

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

CALFEE, HALTER & GRISWOLD, LLP
1110 FIFTH THIRD CENTER
21 EAST STATE STREET
COLUMBUS OH 43215-4243

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of
Kieliszewski
Application No. 10/395,402
Filed: March 24, 2003
Attorney Docket No. 27211/04097
For: NOVEL SYNTHETIC GENES FOR PLANT GUMS

DECISION
ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed September 19, 2005 (certificate of mailing date September 15, 2005), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 3, 2005, which set an extendable three month period for reply. No proper extensions of time being obtained and no reply being received, the application became abandoned on April 4, 2005. A Notice of Abandonment was mailed on July 28, 2005. A petition to revive under 37 CFR 1.137(b), filed July 26, 2005 (certificate of mailing date July 21, 2005), was dismissed on August 22, 2005 because the Office had not yet processed petitioner's reply- a continuation application,- when the decision on petition was written. Therefore, the Office contended a proper reply was lacking.

With the instant reconsideration petition, petitioner has established that a continuation application was filed on July 1, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuation application No. 11/173,811.

Petitioner has re-submitted a $510.00 three month extension of time. As stated in the prior decision, pursuant to 37 CFR 1.136, an extension of time must be filed **prior** to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $510.00 extension of

time submitted with the initial petition on July 26, 2005 (certificate of mailing date July 21, 2005) was subsequent to the maximum period obtainable for reply (July 3, 2005 was the deadline), this fee is unnecessary and will be credited to petitioner's deposit account, no. 03-0172. Please keep in mind that this application is being revived **for purposes of establishing continuity** with application no. 11/173,811.

After the mailing of this decision, the application file will be forwarded to Files Repository.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-23-09 Paper No.: _____

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/345410 Patent No.: 7536028

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

FOR IFW FILES: Check Drawings

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

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: _____

VIKKRAM BALI
SPE

2624
Art Unit

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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Hodgson Russ, LLP
One M & T Plaza
Suite 2000
Buffalo, NY 14203-2391

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of
Soldano Ferrone, et. al.
Application No. 10/395,434
Filed: March 24, 2003
Attorney Docket No. 03551.0130

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 27, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of inventors will be changed as follows:

1. Soldano Ferrone
2. Chun-Yen Tsao
3. Xinhui Wang
4. Wei Luo
5. Nai-Kong V. Cheung

The above-identified application is being forwarded to Technology Center Art Unit 1642, for review of the response to restriction requirement filed January 29, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 14 2006

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

HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO NY 14203-2391

In re Patent No. 6,939,948 FERRONE ET AL
Issue Date: September 6, 2005
Appl No.: 10/395,434
Filed: March 24, 2003
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed April 21, 2006, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 30 2004

OFFICE OF PETITIONS

In re Application of
Michael A. Shore
Application No. 10/395,478
Filed: March 24, 2003
Attorney Docket No. 2893.17US (96-97.10/US)

ON PETITION

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed April 29, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid, April 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center 2818 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).

OIPE
AUG 2 5 2004
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RECEIVED
MAY 0 5 2004
TRASKBRITT, P.C

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

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

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APR 3 0 2004
OFFICE OF PETITIONS

In re Application of
Michael A. Shore
Application No. 10/395,478
Filed: March 24, 2003
Attorney Docket No. 2893.17US (96-97.10/US)

ON PETITION

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed April 29, 2004.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid, April 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center 2818 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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Paper No. 4

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

COPY MAILED

AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of
Brightwell, et al.
Application No. 10/395,517
Filed: March 24, 2003
Attorney Docket No. 087805-9012-01

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10(d) filed on August 19, 2003, requesting that the above-identified application be accorded a filing date of March 24, 2003.

Petitioners allege that the application was deposited in Express Mail service on March 24, 2003. However, the "date-in" on petitioners' Express Mail customer receipt is March 23, 2003, the filing date presently accorded the application.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis added). Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the December 3, 1997 requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition filed August 19, 2003, is accompanied by a copy of a "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing that the Express Mail package in question was deposited with the USPS on March 24, 2003, not March 23, 2003.

Accordingly, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **March 24, 2003**.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060726

DATE : December 18, 2006

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7,123,657

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:

Mehrdad Dastouri

SPE: Dastouri Mehrdad **Art Unit** 2621

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

Bib Data Sheet

CONFIRMATION NO. 6137

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/395,517	03/24/2003 RULE	375	2621	087805-9012-01

APPLICANTS

Peter John Brightwell, London, UNITED KINGDOM;
Nicholas Dominic Wells, Brighton, UNITED KINGDOM;
Phillip Nicholas Tudor, Horley, UNITED KINGDOM;

**** CONTINUING DATA *****************************

This application is a CON of 09/600,653 10/02/2000 PAT 6,577,682 which is a 371 of PCT/GB99/00227 01/22/1999

**** FOREIGN APPLICATIONS ***********************

UNITED KINGDOM 9801380.8 01/22/1998

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
****** 06/20/2003

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	UNITED KINGDOM	3	17	6
35 USC 119 (a-d) conditions met	☑ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature / Initials				

ADDRESS
23409

TITLE

Video processing system also compressing coding decision data

FILING FEE RECEIVED		
1002	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 3

BRADLEY N. RUBEN
463 FIRST STREET, SUITE 5A
HOBOKEN, NJ 07030-1859

COPY MAILED

NOV 19 2003

OFFICE OF PETITIONS

In re Application of :
Bradley N. Ruben et al :
Application No. 10/395,522 : DECISION DISMISSING PETITION
Filed: March 24, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. BARB-001A :

This paper is responsive to the communication entitled "LETTER REGARDING LACK OF SIGNATURE OF CO-INVENTOR," filed on March 24, 2003, which is being treated as a petition under 37 CFR 1.47(a).

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. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

On March 24, 2003, this application was filed listing Alfred Basichas and Bradley N. Ruben as joint inventors. The application was filed with a declaration executed only by joint inventor Bradley N. Ruben.

On May 19, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring the submissing of an executed oath or declaration and a $65 surcharge for its late filing. However, in view of the submission of a rule 47 petition on filing, the Notice of May 19, 2003 is improper and is hereby vacated.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning 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 nonsigning inventor. Applicant lacks items (1), (2), (3) and (4) set forth above.

As to item (1), joint inventor Alfred Basichas is an employee of the United States Patent and Trademark Office (USPTO) and, therefore, may not sign the declaration under 35 U.S.C. 4. *See* American Cyanamid Company v. Ladd, 140 USPQ 364 (D.C. Cir. 1964). However, patent applications must be filed by the inventors, unless the inventor refuses or cannot be reached to sign (35 U.S.C. § 116 or 118 apply) or is legally incapacitated (dead or insane; *see* 35 U.S.C. 117). As a result, in order for this application to be forwarded for examination, rule 47 Applicant must demonstrate refusal on the part of Mr. Basichas to join in the filing of the patent application after having been presented with a copy thereof. In order to demonstrate such refusal, rule 47 Applicant should file a renewed petition under 37 CFR 1.47(a), providing proof either that the nonsigning joint inventor Basichas refused to sign the declaration or that he could not be reached. Rule 47 Applicant should mail a copy of the application papers to Mr. Basichas, requesting either that he sign the declaration or indicate that he is employed by the USPTO and that he cannot sign the declaration. If Mr. Basichas does not reply to the request, then the refusal (or the affirmative statement that he is employed by the USPTO) can be treated as evidence that he refuses to sign the declaration.

As to item (2) above, the oath or declaration is not acceptable since it fails to state the residence and mailing address of joint inventor Basichas. *Note* 37 CFR 1.63(c)(1). Accordingly, an oath or declaration complying with the provisions of 37 CFR 1.63(c)(1) signed by joint inventor Ruben on behalf of nonsigning inventor Basichas must be presented.

Turning next to item (3), the petition fee of $130 has not been received. Before any further consideration on the merits of a petition under 37 CFR 1.47(a) will be undertaken, the $130 petition fee must be submitted.

As to item (4), a statement of the nonsigning inventor's last known address is missing and is required.

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

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

By hand: Office of Petitions
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Effective December 1, 2003, the USPTO is revising its procedures to require that a single, centralized location be used for hand-carried and facsimile-transmitted patent application related incoming correspondence. The centralized location for hand-carried correspondence is located at:

By hand: 2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

By centralized fax: **(703) 872-9306**

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BRADLEY N. RUBEN
463 FIRST STREET, SUITE 5A
HOBOKEN, NJ 07030-1859

COPY MAILED

JAN 13 2004

OFFICE OF PETITIONS

In re Application of
Alfred Basichas and Bradley N. Ruben
Application No. 10/395,522
Filed: March 24, 2003
Attorney Docket No: BARB-001A

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition filed January 5, 2004, requesting reconsideration of the decision mailed November 19, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The renewed petition does not satisfy the requirements of 37 CFR 1.47(a). Therefore, the petition under 37 CFR 1.47(a) stands 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. **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 (2) set forth above.

As to item (2), the Combined Declaration and Power of Attorney for Patent Application is unacceptable since joint inventor Ruben has signed in the signature block for nonsigning inventor Basichas. The declaration would be acceptable if joint inventor Ruben signed in his respective signature block and left the signature block for nonsigning inventor Basichas blank.

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:[1]	2011 South Clark Place Crystal Plaza Two, Lobby Room 1B03 Arlington, VA 22202
By FAX: [2]	(703) 872-6906 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703)305-8680.

Frances Hicks

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

[1] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. 9

BRADLEY N. RUBEN
463 FIRST STREET, SUITE 5A
HOBOKEN, NJ 07030-1859

COPY MAILED

FEB 0 2 2004

OFFICE OF PETITIONS

In re Application of	:
Alfred Basichas and Bradley N. Ruben	:
Application No. 10/395,522	: DECISION GRANTING
Filed: March 24, 2003	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: BARB-001A	:
	:

This is in response to the petition, filed January 20, 2004, requesting reconsideration of the decision mailed November 19, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that joint inventor Alfred Basichas has refused to join in the filing of the above-identified application because he cannot sign due to his present employment with the USPTO.

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 nonsigning 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 the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

THOMAS SPARICO
525 EAST 72ND STREET
APARTMENT 23F
NEW YORK NY 10021

COPY MAILED

JUL 07 2003

OFFICE OF PETITIONS

In re Application of
Walker, Jorasch, Sparico & Fincham
Application No. 10/395,529
Filed: March 21, 2003
Attorney Docket No. 02-029
For: METHODS AND APPARATUS FOR PROVIDING ENTERTAINMENT CONTENT AT A GAMING DEVICE

LETTER

Dear Mr. Sparico:

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: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

UNITED STATES 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

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JUL 0 7 2003

OFFICE OF PETITIONS

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of
Walker, Jorasch, Sparico & Fincham
Application No. 10/395,529
Filed: March 21, 2003
Attorney Docket No. 02-029
For: METHODS AND APPARATUS FOR PROVIDING ENTERTAINMENT CONTENT AT A GAMING DEVICE

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

This is in response to the petition under 37 CFR 1.47(a), filed June 5, 2003 (certificate of mailing date June 3, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Thomas Sparico, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Micheal D. Brinton, patent paralegal with Mr. Sparico's former employer, establishes that the inventor received the application papers, including the specification, claims and drawings, but orally refused sign the declaration and requested that Walker Digital stop sending packages containing Walker Digital applications and other documents requiring his signature. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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.
10/395,533	03/24/2003	James Brian Kurtz	302242.01/MFCP.143208	3841

45809 7590 04/30/2010

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

EXAMINER	
SAX, STEVEN PAUL	
ART UNIT	**PAPER NUMBER**
2174	

MAIL DATE	DELIVERY MODE
04/30/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHOOK, HARDY & BACON, L.L.P.
(MICROSOFT CORPORATION)
Intellectual Property Department
2555 Grand Boulevard
Kansas City MO 64108

In re Application of:
KURTZ, James et al.
Appl. No.: 10/395,533
Filed: March 24, 2003
For: SYSTEM AND METHOD FOR USER MODIFICATION OF METADATA IN A SHELL BROWSER

RESPONSE TO PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed February 7, 2008, to expunge privileged information inadvertently filed electronically with the Information Disclosure Statement on January 31, 2008.

The petition is **GRANTED**.

Petitioner states that "the submission to be expunged is marked, and appears with the description 'NPL Documents," and a page count of 19 pages. This filing includes the international search report [PCT/US06/26854] and the confidential communication requested to be expunged. The portion that was inadvertently submitted appears on pages 1-10 of that submission." Petitioner also requests "prompt removal of this information from the PTO's PAIR system and any hard copy file for this case is necessary to avoid irreparable harm." The petition fee set forth in 37 CFR § 1.17(f) and (g) has been paid.

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 has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is 571-272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREER BURNS & CRAIN LTD
300 S. WACKER DRIVE – SUITE 2500
CHICAGO, IL 60606

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NOV 19 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Thomas S. Riccobene
Application No. 10/395,537
Filed: March 24, 2003
Attorney Docket No. 1825.66439

This is a decision on the petition, filed November 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 August 23, 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 1772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 06 2010

OFFICE OF PETITIONS

GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

In re Patent No. 6,881,463	:	
Issue Date: April 19, 2005	:	
Application No. 10/395,537	:	NOTICE
Filed: March 24, 2003	:	
Attorney Docket No. 1825.66439	:	

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 Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Timothy A. Fino et al :
Application No. 10/395,543 : DECISION GRANTING PETITION
Filed: March 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 64556-0191 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of December 23, 2005, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2176.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM DAVID KIESEL
P.O. BOX 15928
BATON ROUGE LA 70895

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of :
John Prevost et al :
Application No. 10/395,547 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. 8482.015 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed September 2, 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 December 3, 2005.

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

This matter is being referred to Technology Center AU 1651.

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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MAILED

JAN 28 2010

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

In re Patent No. 7,048,960 :
Issue Date: May 23, 2006 :
Application No. 10/395,554 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 41812.4 :

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

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

JUL 14 2003

UR
PAPER NO. 4

In re Application of :
Gary G. Teng :
Serial Number: 10/395,641 : PETITION UNDER
Filed: March 24, 2003 : M.P.E.P.708.02,V
For: NEGATIVE LITHOGRAPHIC PRINTING PLATE :
COMPRISING A SPECIFIC COMPOUND IN :
THE PHOTOSENSITIVE LAYER :

This is in response to the petition filed, March 24, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

RIVKA D. MONHEIT
HOLLAND & KNIGHT LLP
SUITE 2000, ONE ATLANTIC CENTER
1201 WEST PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3400

COPY MAILED

JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Aaldert Rens Molenberg :
Application No. 10/395,650 : NOTICE
Filed: March 21, 2003 :
Attorney Docket No. KUROS 100

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 Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Aaldert Rens Molenberg	: DECISION ON REQUEST FOR
Patent Number	: 7575740	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/395,650	: OF WYETH
Filed	: 03/21/2003	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD CT 06902

COPY MAILED

DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Callies et al.	:	DECISION ON APPLICATION
Application No. 10/395,661	:	FOR
Filed: March 24, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. MEC-013A	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed September 19, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from twenty-four (24) days to five hundred forty-five (545) days plus the number of days in the period beginning on August 25, 2006 and ending on the issue date of the patent.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred forty-five (545) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 24, 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 24 days. On September 19, 2006, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants disclose that a

[1] PALM records indicate that the Issue Fee payment was received on October 23, 2006.

period of reduction of 31 days should be entered for their delay in filing a response to the non-final Office action mailed June 17, 2004. Their response was filed on October 18, 2004. At the same time, applicants request 552 additional days of adjustment for Office delay in taking action in response to the response filed October 18, 2004, and for Office delay in issuing the patent after mailing of the notice of allowance.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

The application history has been reviewed and it is concluded that entry of a period of reduction of 31 days pursuant to 37 CFR 1.704(b) and entry of a period of adjustment of 552 days pursuant to 37 CFR 1.702(a)(2) is warranted.

However, the rules do not provide for entry of a period of adjustment for Office delay from the day after the mailing of the notice of allowance to the date of issuance of the patent. The pertinent delay is calculated from the date that is four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied until issuance of the patent. See 37 CFR 1.702(a)(4). The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements met.

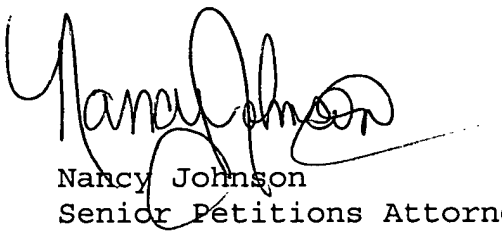
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred forty-five (545) days.

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

The Office of Patent Publication has been advised of this decision. The Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap

under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

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 PAIR Screen

PTA Calculations for Application: 10/395661			
Application Filing Date:	03/24/2003	PTO Delay (PTO):	24
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	545
PTO Delay Adjustment:	521		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
35	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
34	12/04/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	552		
26	08/24/2006	MAIL NOTICE OF ALLOWANCE			
25	08/22/2006	ISSUE REVISION COMPLETED			
24	08/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	08/21/2006	NOTICE OF ALLOWABILITY			
22	03/04/2005	MAIL OF WITRHDRAW OF INFORMAL AMENDMENT NOTICE			
21	03/03/2005	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
20	02/18/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
19	02/17/2005	DATE FORWARDED TO EXAMINER			
18.1	10/18/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
18	10/18/2004	RESPONSE AFTER NON-FINAL ACTION			
17	10/18/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
16	06/17/2004	MAIL NON-FINAL REJECTION	24		-1
15	06/01/2004	NON-FINAL REJECTION			
14	05/28/2004	CORRESPONDENCE ADDRESS CHANGE			
13	02/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	07/23/2003	REFERENCE CAPTURE ON IDS			
11	07/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/23/2003	CASE DOCKETED TO EXAMINER IN GAU			

9	06/02/2003	TRANSFER INQUIRY TO GAU			
8	05/19/2003	APPLICATION DISPATCHED FROM OIPE			
7	05/19/2003	APPLICATION IS NOW COMPLETE			
4	05/06/2003	CLEARED BY L&R (LARS)			
3	05/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/24/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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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)
6962203	2005-11-08	10395667	2003-03-24	COR-0004

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Chandran D. Kumar/	Date (YYYY-MM-DD)	2010-01-21
Name	Chandran D. Kumar	Registration Number	48679

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. 6962203
Issue Date: November 8,2005
Application No. 10395667
Filed: March 24,2003
Attorney Docket No. 0102 OWE USA

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

This is a decision on the electronic petition, filed January 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BRYAN CAVE LLP
1290 AVENUE OF THE AMERICAS, 33RD FLOOR
NEW YORK, NY 10104

In re Patent No. 7,238,818
Issue: July 3, 2007
Application No. 10/395,686
Filed: March 24, 2003
Attorney Docket No. C15488/110350

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed March 18, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which

priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The 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.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

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

On April 14, 2009, a Certificate of Correction, signed by Acting Director John Doll of the USPTO, was issued.

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.

Any inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: WARREN K. MACRAE
LOEB & LOEB LLP
345 PARK AVENUE
NEW YORK, NY 10154

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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/395,686	03/24/2003	1713	2080	C15488/110350	19	2

CONFIRMATION NO. 2978

CORRECTED FILING RECEIPT

Bryan Cave LLP
1290 Avenue of the Americas, 33RD Floor
New York, NY 10104

Date Mailed: 08/10/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

John A. Ewen, Houston, TX;
Michael J. Elder, Elkton, MD;
Robert L. Jones JR., Elkton, MD;
Yuri A. Bubitsky, Milano, ITALY;

Power of Attorney:

Maurice Stiefel--18479	Stephen Haracz--33397
Lawrence Kurland--24895	David Roodman--35663
Stephen Gilbert--27893	Susan Rosenfield--36287
Donald Lenkszus--28096	Warren MacRae--37876
Mark Waddell--31803	N Wilson--38661

Domestic Priority data as claimed by applicant

This application is a CON of 09/308,308 05/17/1999 ABN
which is a 371 of PCT/EP97/06297 11/12/1997

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 96118369.6 11/15/1996

If Required, Foreign Filing License Granted: 05/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/395,686**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HETEROCYCLIC METALLOCENES AND POLYMERIZATION CATALYSTS

Preliminary Class

556

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 24 2004

In re Application of:
Starzyk, et al
Application No. 10/395,690
Filed: 03/24/2003
Attorney Docket No. SAR 14648

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 May 19, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 7, 2005

Michael J. DiVerdi
Foley Hoag LLP
155 Seaport Blvd.
Boston, MA 02210

In re Application of:
Kunz, et al
Serial No: 10/395,703 On Petition
Filing Date: March 24, 2003
For: **OPTICAL FLUIDS, AND SYSTEMS AND METHODS OF MAKING AND USING THE SAME**

In response to the petitions received on July 9, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed May 12, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned July 15, 2003. The notice of abandonment was mailed on June 7, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on June 11, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/23/05

MEB
Paper Number

In re application of :
Kunz et al. : DECISION ON
Serial No. 10/395,703 : PETITION
Filed: March 24, 2003 :
For: Optical Fluids, and Systems and Methods of Making and Using the Same

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed February 9, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 7, 2004, for failure to timely reply to the Notice to File Missing Parts of Non-provisional Application of May 12, 2003 be withdrawn. The petitioner asserts that the response was timely filed by mail on June 9, 2003.

DECISION

Upon review of the Office's records and databases, the aforementioned Notice of Abandonment was withdrawn administratively, on April 7, 2005. The applicant's response and papers of June 9, 2003 have been entered into the application. This application currently has a status as being docketed to an examiner and is ready for examination.

Therefore, the Petition is **Dismissed**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MICHAEL J. DIVERDI, PH.D.
FOLEY HOAG LLP
155 SEAPORT BOULEVARD
BOSTON, MA 02210

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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RAYMOND Y CHAN
108 N YNEZ AVE
SUITE 128
MONTEREY PARK CA 91754

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of
John Jiin Chung Yang :
Application No. 10/395,704 : DECISION ON
Filed: March 25, 2003 : PETITION
Attorney Docket No. USP1823A-CTI :

This is in response to the petition to revive under 37 CFR 1.137(b), filed November 8, 2004.[1]

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

The above-identified application became abandoned for failure to timely pay the issue fee and publication fees as required by the Notice of Allowance mailed on July 28, 2004. This notice set a statutory period for reply of three months. No issue fee and publication fee having been received, the above-identified application became abandoned on October 29, 2004. A Notice of Abandonment was mailed on November 22, 2004.

[1] The petition was mislabeled with application no. 10/295,704.

With the instant petition, petitioner paid the petition fee together with the publication and issue fees, and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Serengulam V. Govindam et al :
Serial No.: 10/395,718 : WITHDRAWAL OF ATTORNEY
Filed: March 25, 2003 :
Attorney Docket No.: 018733-1210 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 5, 2005

Denis A. Robitaille
Axcelis Technologies, Inc.
108 Cherry Hill Drive
Beverly, MA 01915

In re Application of:
Benveniste
Serial No: 10/395,720 On Petition
Filing Date: January 7, 2003
For: **MOUNTING MECHANISM FOR PLASMA EXTRACTION APERTURE**

In response to the petitions received on March 25, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed June 20, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned August 21, 2003. The notice of abandonment was mailed on August 25 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on August 20, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

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AXCELIS TECHNOLOGIES, INC.
108 CHERRY HILL DRIVE
BEVERLY, MA 01915

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
BENVENISTE :
Application No.: 10/395,720 : DECISION ON PETITION
Filing Date: January 7, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 00-SM6-070 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 7, 2005.

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, "PART B - FEES(S) TRANSMITTAL" or its equivalent has not been submitted. See Notice of Allowance, "How to Reply to This Notice", Section II.

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 as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

James W. Hiney, Esq.
Suite 1100
1872 Pratt Drive
Blacksburg, VA 24060

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OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Frankie Ridpath, et al. :
Application No. 10/395,723 : ON PETITION
Filed: March 21, 2003 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that on May 16, 2003, a Notice to File Corrected Application Papers (Notice) was mailed, setting a two (2) month period for reply. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. Since no response was filed, the application became abandoned after midnight July 16, 2003. A Notice of Abandonment was mailed on June 7, 2004.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further review of the replacement drawings provided on August 31, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

Mail Date: 04/21/2010

Applicant	: Takeshi Yokoi	: DECISION ON REQUEST FOR
Patent Number	: 7578788	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/395,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **381** 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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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Lennart Karlsson et al :
Application No. 10/395,751 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. 1-73399 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 24, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3616 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OLSON & HIERL, LTD.
36TH FLOOR,
20 NORTH WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,902,278 :
Issue Date: June 7, 2005 :
Application No. 10/395,757 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. AM-1 :

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 undersigned at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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ATTORNEY DOCKET NO.
017109.0621

PATENT NO.
US 6,902,278

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Andrew J. Bala
Patent No.:	US 6,902,278
Issued:	June 7, 2005
Application No.:	10/395,757
Filed:	March 24, 2003
Confirmation No.	7524
Title:	*Surgical Microscope Drape Assembly*

Mail Stop M Correspondence
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

NOTIFICATION OF CHANGE IN SMALL ENTITY STATUS

The assignee of the above-identified U.S. Patent wishes to notify the U.S. Patent and Trademark Office that status as a Small Entity is no longer appropriate pursuant to 37 C.F.R. §1.27.

The Maintenance Fee paid on November 6, 2008, was not in the amount set forth in 37 C.F.R. §1.20(c) for "other than small entity." The Commissioner is hereby authorized to charge the Deposit Account No. 02-0384 of Baker Botts L.L.P. in the amount of $490.00 for payment of the deficiency owed.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorney for Applicant

Bradley P. Williams
Registration No. 40,227

Date: 1/30/09

CUSTOMER NO. 05073

DAL01:1046033.1

02/27/2009 TCOATES 00000134 020384 6902278
01 FC:1559 490.00 DA

Adjustment Date: 04/27/2009 CKHLOK
02/27/2009 TCOATES 00000134 020384 6902278
01 FC:1559 490.00 CR

05/01/2009 CKHLOK 00000017 020384 6902278
01 FC:1551 980.00 DA

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Paper No. None

John W. P. Redden, P.E.
24170 131st Street
Leavenworth KS 66048

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of
John W. P. Redden
Application No. 10/395,760
Filed: March 25, 2003
Title: RAILROAD TRACK DESIGN TEMPLATE(2)

DECSION ON PETITION

This is a decision on the petition filed October 5, 2004, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 3, 2004, 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 June 4, 2004. A Notice of Abandonment was mailed on September 9, 2004.

With the present petition, Petitioner has submitted a statement of facts and the petition fee.

Petitioner has met requirement (2) above. Requirement (4) does not apply.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have

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.

avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(a)(1) (i.e., a response to the non-final Office action of March 3, 2004). Petitioner has submitted an amendment along with this petition, however Petitioner has submitted this response as a part of his petition. 37 C.F.R. §1.4(c) sets forth:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

As such, the section of his response entitled "Part 2 – Reply" will not be entered into the record. On renewed petition, Petitioner should submit this response in a manner so that it is separate from his renewed petition.

Regarding the third requirement above, 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

35 USC §133 states, "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." (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."[3]

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2 See M.P.E.P. 711.03(c).

3 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 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[4]."

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[5]

Nonawareness of a PTO rule will not constitute unavoidable delay[6]

The burden of showing the cause of the delay is on the person seeking to revive the application[7].

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[8].

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[9].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[10]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[11]."

---

4 Id.

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

6 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.

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

9 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).

10 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

11 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

The regulations and portion of the MPEP relevant to the abandonment of this application

37 C.F.R. § 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.

37 C.F.R. § 1.31 Applicants may be represented by a registered attorney or agent.

An applicant for patent may file and prosecute his or her own case, or he or she may be represented by a registered attorney, registered agent, or other individual authorized to practice before the Patent and Trademark Office in patent cases. See §§ 10.6 and 10.9 of this subchapter. The Patent and Trademark Office cannot aid in the selection of a registered attorney or agent.

[50 FR 5171, Feb. 6,1985, effective Mar. 8, 1985]

37 C.F.R. §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.

[Paras. (a), (b), and (c), 47 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

MPEP §401, U.S. Patent and Trademark Office Cannot Aid in Selection of Attorney, states, in part:

An applicant for patent may file and prosecute his or her own application, and thus act as his or her own representative (pro se) before the Office. See 37 CFR 1.31. In presenting (whether by signing, filing, submitting, or later advocating) papers to the Office, a pro se applicant is making the certifications under 37 CFR 10.18(b), and may be subject to sanctions under 37 CFR 10.18(c) for violations of 37 CFR 10.18(b)(2). See 37 CFR 1.4(d)(2). See also MPEP § 410.

If patentable subject matter appears to be disclosed in a pro se application and it is apparent that the applicant is unfamiliar with the proper preparation and prosecution of patent applications, the examiner may suggest to the applicant that it may be desirable to employ a registered patent attorney or agent. It is suggested that form paragraph 4.10 be incorporated in an Office action if the use of an attorney or agent is considered desirable and if patentable subject matter exists in the application.

Application of the standard to the current facts and circumstances

With the instant petition, Petitioner has set forth that the Applicant received the non-final Office action of March 3, 2004 which contained the text:

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Petitioner has set forth that he consulted with a patent attorney, and determined that he could not afford to retain him to prepare the reply. Petitioner decided against preparing a response himself, and Petitioner allowed the application to go abandoned. Petitioner later determined that an attorney was not required, at which point a response was prepared and submitted with this petition.

Petitioner should be aware that petitions filed under 37 C.F.R. §1.137(a) (where the cause of the abandonment is characterized as "unavoidable") have a very stringent standard associated with them, and carry a high bar of proof which must be submitted to show that the entire period of delay was truly unavoidable. As such, a delay caused by an applicant's inexperience with the patent system is not rendered "unavoidable."

Petitioner has set forth that the entire period of delay, from June 4, 2004 to October 5, 2004, could not have been avoided because Petitioner could not afford an attorney. As set forth in MPEP §401 and 37 C.F.R. §1.31, applicants are free to act as their own representatives before the Office - there is no requirement that they retain the services of professionals. While the non-final Office action suggested that Petitioner might wish to secure the services of a registered patent attorney or agent to prosecute this application, neither the recited text of the non-final office action, the regulations, or the MPEP **require** the employ of a professional in furthering the prosecution of an application. It appears that Petitioner learned what a single patent attorney would charge him to prepare a response to the non-final office action, and then decided against taking further action. Petitioner consciously chose against personally preparing a response for some period of time between June 4, 2004 to October 5, 2004, and thus he cannot assert that the entire period of delay was unavoidable. As set forth in MPEP 711.03(c), "an intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken[12]." It follows that an intentional course of action is also not rendered unavoidable under similar circumstances.

Conclusion

For these reasons, the petition under 37 C.F.R. §1.137(a) must be **DISMISSED**.

12 See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988)

Alternate venue

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 CFR §1.137(b)[13]. Petitioner should be made aware that although the surcharge is significantly higher ($750 for a small entity), the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". A form for this petition may be located at http://www.uspto.gov/web/forms/sb0064.pdf. However, should Petitioner wish to pursue this option, he must still address the issue of whether the entire period of delay was not intentional.

Response

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(a) (*or 1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[14], hand-delivery[15], or facsimile[16].

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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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, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

16 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

COPY MAILED

SEP 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Modglin	:	
Application No. 10/395,763	:	
Patent No. 6,899,689	:	DECISION ON PETITION
Filed: March 21, 2003	:	PURSUANT TO 37 C.F.R.
Issue Date: May 31, 2005	:	§ 1.378(B)
Attorney Docket Number:	:	
57591.US/1720.0	:	
Title: SPINAL BRACE	:	

This is a decision on the petition filed on August 6, 2009, pursuant to 37 C.F.R. § 1.378(b) to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.378(b) is **GRANTED**.

Background

The patent issued on May 31, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 31, 2009, with no payment received. Accordingly, the patent expired on May 31, 2009 at midnight.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);

(2) the surcharge set forth in 37 C.F.R. § 1.20(i)(1), and;

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent - the showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

With this petition, Petitioner has submitted the surcharge associated with a petition to accept the late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fee and a statement of facts.

Petitioner has met the first and second requirements of Rule 1.378(b). The third requirement of Rule 1.378(b) will be discussed below.

The standard

35 U.S.C. § 41(c)(1) states, *in pertinent part*:

> The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay[1] is shown to the satisfaction of the Director to have been unavoidable.

37 C.F.R. § 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 C.F.R. § 1.137(a). This is a very stringent standard. 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.[2]

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1 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. § 1.378(b).
2 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 are made on a "case-by-case basis, taking all the facts and circumstances into account." Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[3]

The burden of showing the cause of the delay is on the person seeking to revive the application.[4]

Relevant Portion of the C.F.R.

37 C.F.R. § 1.8(a)(1) sets forth, *in toto*:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. 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;
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or
> (C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); 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 correspondence would be mailed or transmitted on or before the date indicated.

Application of the standard to the current facts and circumstances

Petitioner's explanation of the delay has been considered, and it has been determined that it fails to meet the standard for acceptance of a late payment of the maintenance fee and surcharge.

The period for paying the 3½-year maintenance fee without the surcharge extended from May 31, 2008 to November 30, 2008 and

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3 Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.
4 Id.

for paying with the surcharge from December 1, 2008 to May 31, 2009. Thus, the delay in paying the 3½-year maintenance fee extended from May 31, 2009 at midnight to the filing of this petition on August 6, 2009.

With this petition, Petitioner has asserted that the maintenance fee was timely submitted via check on November 17, 2008. Petitioner has further asserted that the check was not cashed, and that the return postcard was not received. In order to support this assertion, Petitioner has included a copy of the check that was sent, along with the maintenance fee transmittal form which contains a certificate of mailing dated November 17, 2008, an authorization to charge any deficiency to a Deposit Account, and the correct identifiers for this patent. Both the certificate of mailing and the maintenance fee transmittal form were executed by Petitioner. Although the Office has no way of determining whether Petitioner's bank account contained sufficient funds to cover this check, Office records indicate that Petitioner is an authorized user of this Deposit Account, which contained sufficient funds during the time period which this check should have been received by the Office.

As such, it has been established that payment was timely submitted to the Office.

However, this petition cannot be granted at this time, for **the record does not contain a showing that Petitioner had steps in place to ensure the timely submission of the maintenance fee.** An adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR § 1.378(b).

Conclusion

Any request for reconsideration of this decision **must** be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or

review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiency noted above.
If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed.

The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.378(e)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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Paper No.

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

MAILED

JAN 26 2010

OFFICE OF PETITIONS

In re Application of :
Modglin :
Application No. 10/395,763 :
Patent No. 6,899,689 :
Filed: March 21, 2003 : REQUEST FOR MORE INFORMATION
Issue Date: May 31, 2005 :
Attorney Docket Number: :
57591.US/1720.0 :
Title: SPINAL BRACE :

This letter is being mailed in response to a renewed petition pursuant to 37 C.F.R. § 1.378(e) filed on October 8, 2009, requesting reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of maintenance fees for the above-referenced patent.

Background

The patent issued on May 31, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 31, 2009, with no payment received. Accordingly, the patent expired on May 31, 2009 at midnight.

A petition pursuant to 37 C.F.R. § 1.378(b) was filed on August 6, 2009, and was dismissed via the mailing of a decision on September 22, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.378(e) was filed on October 8, 2009, along with the required surcharge. Supplements to the renewed petition were filed on December 15, 2009 and December 16, 2009.

Additional Inquiries

The decision on the original petition indicated "the record does not contain a showing that Petitioner had steps in place to ensure the timely submission of the maintenance fee."[1]

Petitioner has since established that his firm "has an electronic docketing system and the due date for the payment of the fee was duly docketed,"[2] however the record does not contain a description of how this electronic docketing system serves to ensure the timely submission of the maintenance fee.

1. How does the electronic docketing system serve to ensure the timely submission of the maintenance fee? Does it generate a tickler in advance of the due date? Is this tickler sent directly to the responsible attorney?
2. Reference has been made to blue slips of paper that are provided to the responsible attorney six months in advance of the due date.[3] How are these slips of paper generated, how are they distributed in a timely manner, and what action do they require from the attorney to which they are provided?

Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After the decision on the petition for reconsideration and the response to this inquiry, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiencies noted above.

Petitioner should note that the undersigned is unfamiliar with the inner workings of Petitioner's law practice. The decision which follows the submission of the response to this request for

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1 Decision on original petition, page 4.
2 Renewed petition.
3 Id. at 2 and December 16, 2009 supplement, page 1.

reconsideration will be based strictly on the written record, and as such, any internal law office procedure which is set forth therein should be described with *exacting specificity*.

If on response to this inquiry, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for responding to this inquiry, if none is filed.

The response to this inquiry should be entitled "Response to Inquiry," and should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

Petitioner is encouraged to file the response to this decision via EFS-Web, and telephone the undersigned after such filing.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this request for more information* should be directed to the undersigned at (571) 272-3225.[8]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 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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Paper No.

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE TN 37901

COPY MAILED
MAR 09 2010

In re Application of	:	
Modglin	:	DECISION ON RENEWED PETITION
Application No. 10/395,763	:	PURSUANT TO
Patent No. 6,899,689	:	37 C.F.R. § 1.378(E)
Filed: March 21, 2003	:	AND
Issue Date: May 31, 2005	:	ORIGINAL PETITION PURSUANT
Attorney Docket Number:	:	TO 37 C.F.R. § 1.378(C)
57591.US/1720.0	:	
Title: SPINAL BRACE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.378(e) filed on October 8, 2009, requesting reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of a maintenance fee for the above-referenced patent. This is also a decision on the petition pursuant to 37 C.F.R. § 1.378(c), filed on February 22, 2010.

The renewed petition pursuant to 37 C.F.R. § 1.378(e) is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

Background

The patent issued on May 31, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 31, 2009, with no payment received. Accordingly, the patent expired on May 31, 2009 at midnight.

A petition pursuant to 37 C.F.R. § 1.378(b) was filed on August 6, 2009, and was dismissed via the mailing of a decision on September 22, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.378(e) was filed on October 8, 2009, along with the required surcharge. Supplements to the renewed petition were filed on December 15, 2009 and December 16, 2009.

A request for more information was mailed on January 26, 2010, which set a non-extendable one-month period for response.

A response to the above-referenced inquiry was timely submitted on February 22, 2010, however the response was not executed. Due to the fact that the response of February 22, 2010 has not been executed, the submission cannot be entered, pursuant to Rule 10.18(a).[1, 2] It follows that the renewed petition pursuant to 37 C.F.R. § 1.378(e) cannot be granted, as the record does not contain a showing that Petitioner had steps in place to ensure the timely submission of the maintenance fee.[3]

Regarding the petition pursuant to 37 C.F.R. § 1.378(c), a grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;

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1 37 C.F.R. § 10.18(a) sets forth, *in toto*: "[f]or 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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter."

2 See also 37 C.F.R. § 1.4 and MPEP § 502.02.

3 An adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR § 1.378(b).

(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

The difference between the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional and the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable has been charged to Petitioner's Deposit Account. The 3½-year maintenance fee was submitted on August 6, 2009. With this petition, Petitioner has included a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[4] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD, P.O. BOX 368
RIDGEFIELD, CT 06877

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OCT 28 2004

OFFICE OF PETITIONS

In re Application of :
Karin Drechsel et al :
Application No. 10/395,777 :
Filed: March 24, 2003 :
Attorney Docket No. 1/1162-1-C1 :

ON PETITION

This is a decision on the petition, filed October 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 September 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WILLIAM E. CURRY
KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON, D.C. 20005

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Ronald D. Blum et al :
Application No. 10/395,793 : NOTICE
Filed: March 25, 2003 :
Attorney Docket No. 10551/438

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 1771.

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
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www.uspto.gov

MOTOROLA, INC.
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048-5343

COPY MAILED

OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Bin Hu, Thomas J. Ballantyne, :
Dmitri R. Latypov, Michael Minuto : DECISION REFUSING STATUS
and Hao A. Nguyen : UNDER 37 CFR 1.47(a)
Application No. 10/395,798 :
Filed: March 24, 2003
For: METHOD AND CONTACT LIST SERVER FOR MODIFYING THE ENTRY NAMES IN A CONTACT LIST

This is in response to the PAPERS STYLED, "Petition Under 37 CFR 1.183 Requesting Waiver Of The Execution Of The Oath Or Declaration For One Of The Joint Inventors," which has been treated as a "Petition Under 37 CFR 1.47(a)," filed August 22, 2003 (Certificate of Mailing date: August 19, 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 24, 2003 without an executed oath or declaration and naming Bin Hu, Thomas J. Ballantyne, Dmitri R. Latypov, Michael Minuto and Hao A. Nguyen as joint inventors.

Accordingly, on May 19, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on August 22, 2003(Certificate of Mailing date: August 19, 2003), the instant petition, the petition fee, the

surcharge and a one (1) month extension of time were 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, "At least two calls have been made to the last telephone number, which were executed and an assignment. Two such packages were sent to Mr. Ballantyne's last known address, the second package authorized delivery without signature." Please note, there appears to be information missing in the first sentence, as submitted in the instant petition on August 22, 2003. As such, applicant has not shown that the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings). Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings),the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, petitioner failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application.

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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JAN 07 2004

OFFICE OF PETITIONS

In re Application of :
Bin Hu, Thomas J. Ballantyne, :
Dmitri R. Latypov, Michael : DECISION GRANTING PETITION
Minuto and Hao A. Nguyen : UNDER 37 CFR 1.47(a)
Application No. 10/395,798 :
Filed: March 24, 2003
For: METHOD AND CONTACT LIST SERVER FOR MODIFYING THE ENTRY NAMES IN A CONTACT LIST

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed December 29, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
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THOMAS J. BALLANTYNE
600 FELL STREET, APT. 508
SAN FRANCISCO, CA 94102

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Bin Hu, Thomas J. Ballantyne, Dmitri R. Latypov,
Michael Minuto and Hao A. Nguyen
Application No. 10/395,798
Filed: March 24, 2003
For: METHOD AND CONTACT LIST SERVER FOR MODIFYING THE ENTRY NAMES IN A CONTACT LIST

Dear THOMAS J. BALLANTYNE:

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

MOTOROLA, INC.
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048-5343

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

0903

Bruce E. Lilling
P.O. Box 560
Golden Bridge, New York 10526

SEP 25 2003

In re Application of
Simon Girshovich et al.
Application No. 10/395,862
Filed: March 24, 2003
Attorney Docket No. 926/1

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 24, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of the passport issued by the state of Israel to inventor Simon Shimon Girshovich which shows that he is over sixty five (65) years of age.

Accordingly, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the

examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that 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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JAN 16 2004

Technology Center 2100

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, California 92614

In re Application of: Eugene M. Tuccinardi	)	**DECISION ON PETITION TO**
Application No. 10/395,870	)	**MAKE SPECIAL UNDER 37**
Filed: March 20, 2003	)	**C.F.R. §1.102(c) AND MPEP §**
For: HEADREST HAVING AN	)	**708.02 (III): APPLICANT'S**
INTEGRATED VIDEO SCREEN	)	**HEALTH**

This is a decision on the petition, filed March 20, 2003, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section III must include a showing, as by a doctor's certificate, that the state of health of one of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for this petition.

The petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Wolf Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

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NOV 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Maddon et al. :
Application No. 10/395,894 :
Filed: March 21, 2003 :
Attorney Docket No. P06741.70005US00 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed September 25, 2003, requesting that the above-identified application be accorded a filing date of March 21, 2003, rather than the presently accorded filing date of March 24, 2003.

Petitioner alleges that the application was deposited in Express Mail service on March 21, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL84041206US. The "date-in" indicated on the Express Mail label is March 21, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

The Office of Initial Patent Examination will be notified to correct the filing date to March 21, 2003.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OIPE JC67
SEP 25 2003
PATENT & TRADEMARK OFFICE

PA C-

DOCKET NO.: P0741.70005US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Maddon et al.
Serial No.:	10/395,894
Confirmation No.:	3649
Filed:	March 21, 2003
For:	PSMA ANTIBODIES AND PROTEIN MULTIMERS
Examiner:	Not yet assigned
Art Unit:	1645

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 22nd day of September, 2003.

Janice A. Vatland, Reg. No. : 52,318

Mail Stop Petitions
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

[X] Petition for Filing Date
[X] Copy of Express Mail Certificate
[X] Copy of Date Stamped Postcard
[X] Copy of Utility Application Transmittal
[X] Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check is not enclosed as it is believed that a petition fee is not necessary. If a petition fee is deemed to be necessary, the Commissioner is hereby authorized to charge the account of the undersigned Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,
Maddon et al., *Applicant*

By: _____
Janice A. Vatland., Reg. No.: 52,318
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617)720-3500

Docket No. P0741.70005US00
Date: September 22, 2003
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Maddon et al. :
Application Number: 10/395894 : ON PETITION
Filing Date: 03/21/2003 :
Attorney Docket Number: :
P0741.70005US00 :

This is a decision in reference to the "PETITION TO EXPEDITE UNDER 37 CFR 1.182," "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," and "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed on 1 October, 2007 (certificate of mailing date 26 September, 2007).

The petition under 37 CFR 1.182 and 1.137(b) are **GRANTED**.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition for expedited consideration under 37 CFR 1.182 is GRANTED.

The application became abandoned on 7 June, 2007, for failure to timely and properly reply to the non-final Office action mailed on 6 December, 2006, which set a three (3) month shortened statutory period for reply. On 11 June, 2007 (certificate of mailing date 6 June, 2007), petitioners filed a reply, including an amendment and a Sequence Listing pursuant to 37 CFR 1.825(a) and (b). The Sequence Listing was determined not to comply with the requirements of 37 CFR 1.822 and/or 1.833, and a Notice to Comply was mailed on 6 September, 2007. Notice of Abandonment was mailed on 24 September, 2007.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners argue that the Sequence Listing filed on 11 June, 2007, was a *bona fide* attempt to comply with the Office action, and that petitioner should be given an additional time period to submit a new Sequence Listing.

Petitioners' argument has been considered, but is not persuasive.

In this regard,

37 CFR § 1.135, states, in pertinent part:

> (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.
>
> (emphasis added)

While the Office attempts to timely inform applicants of deficiencies in their submissions in a manner allowing for timely correction, it is under no obligation so to do. It is the responsibility of the applicant, not the USPTO, to file timely and proper papers in compliance with the laws, regulations, and Office procedures. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985) see also In re Colombo, Inc., 33 USPQ2d 1530, 1532, (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

As such, the showing of record that the application became abandoned as a matter of law for failure to timely file a proper reply.

Moreover, while such failure may have been inadvertent, it does not merit a withdrawal of the holding of abandonment.

As such, the petition to withdraw the holding of abandonment is **DISMISSED**.

PETITION UNDER 37 CFR 1.137(b).

The petition is **GRANTED**.

Receipt of the amendment and Sequence Listing filed with the present petition is acknowledged.

Counsel's deposit account will be charged the $400.00 fee for a petition to expedite, and the $750.00 fee for the petition under 37 CFR 1.137(b). Receipt is acknowledged of the $130.00 submitted with the petition to withdraw the holding of abandonment. As no fee is required for a petition to withdraw the holding of abandonment, this fee will be credited to counsel's deposit account.

The application is referred to Technology Center Art Unit 1643 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE IAP39
OCT 01 2007
PATENT & TRADEMARK OFFICE

Docket No.: P0741.70005US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Paul J. Maddon et al.
Serial No.:	10/395,894
Confirmation No.:	3649
Filed:	March 21, 2003
For:	PSMA ANTIBODIES AND PROTEIN MULTIMERS
Examiner:	S. L. Rawlings
Art Unit:	1643

Certificate of Mailing Under 37 CFR 1.8(a)
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: September 26, 2007

Nicole Millette Hawes

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions that the holding of abandonment of the above-identified patent application be withdrawn under 37 C.F.R. § 1.181.

The Notice of Abandonment is based on an alleged failure to provide a proper reply or a *bona fide* attempt at a proper reply to the Office Communication mailed on December 6, 2006. The U.S. Patent and Trademark Office (USPTO) contends that while a response to the Office Action was mailed June 6, 2007, which included the fee for a three-month extension of time, the response was not fully responsive as the content of the computer readable form did not comply with the requirements under 37 CFR 1.822 and/or 1.823. Applicant believes that this holding of abandonment is in error for the following reasons.

The timely reply mailed June 6, 2007 was a proper reply and fully responsive. At the time of filing the application on March 21, 2003, Applicant submitted a Sequence Listing with a

Adjustment date: 10/26/2007 CKHLOK
10/02/2007 SSITHIB1 00000184 10395894
01 FC:1464 -130.00 OP

1252756.1

10/26/2007 CKHLOK 00000005 232825 10395894
01 FC:1462 270.00 DA 130.00 OP
02 FC:2453 750.00 DA

10/02/2007 SSITHIB1 00000184 10395894
01 FC:1464 130.00 OP

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Maddon et al.	:	
Application Number: 10/395894	:	DECISION ON PETITION
Filing Date: 03/21/2003	:	
Attorney Docket Number:	:	
P0741.70005US00	:	

This is a decision on the petition filed on December 21, 2007, under 37 CFR 1.137(b),[1] which is treated as a petition to withdraw the holding of abandonment. This is also a decision on the concurrently-filed petition to expedite under 37 CFR 1.182.

The petition is **GRANTED**.

A review of the record reveals the following:

1. The application became abandoned on June 7, 2007, for failure to timely and properly reply to the non-final Office action mailed on December 6, 2006, which set a three (3) month shortened statutory period for reply.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

2. On June 11, 2007 (certificate of mailing date June 6, 2007), petitioners filed a reply, including an amendment and a Sequence Listing pursuant to 37 CFR 1.825(a) and (b). A three (3) month extension of time was also filed.

3. On September 6, 2007, a Notice to Comply With the Sequence Rules or CRF Diskette Problem Report was mailed, stating that the Sequence Listing was determined not to comply with the requirements of 37 CFR 1.822 and/or 1.825. The Notice to Comply With the Sequence Rules or CRF Diskette Problem Report stated that if a complete reply has not been submitted by the time period set in the Office communication mailed on December 6, 2006, has expired, the application will become abandoned under 37 CFR 1.821(g) unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

4. Notice of Abandonment was mailed on September 24, 2007.

5. On October 1, 2007, a petition, *inter alia*, to withdraw the holding of abandonment and, in the alternative, to revive the application under 37 CFR 1.137(b) was filed, accompanied by a new Sequence Listing.

6. On October 29, 2007, the petition to revive the application was granted.[2]

7. On November 14, 2007, a Notice to Comply was mailed, stating that the Sequence Listing was determined not to comply with the requirements of 37 CFR 1.822 and/or 1.825. The Notice stated that if a complete reply has not been submitted by the time period set in the Office communication mailed December 6, 2006, has expired, this application will become abandoned under 37 CFR 1.821(g) unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

8. On December 21, 2007, the present petition was filed.

Upon review, the response filed on October 1, 2007, appears to be a *bona fide* response to the outstanding Office action, but lacking in that it does not correct the problem indicated by the Examiner.

Accordingly, there is no abandonment in fact. Any holding of abandonment is withdrawn.

---

[2] The petition to withdraw the holding of abandonment was dismissed in the same decision.

The petition to revive the application filed on December 21, 2007, is dismissed as moot. The petition fee under 37 CFR 1.137(b) will be refunded.

The application is being referred to Technology Center Art Unit 1643 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

Himanshu S. Amin
Amin & Turocy, LLP
24th Floor, National City Center
1900 E. 9th Street
Cleveland OH 44114

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of
Schulte, et al.
Application No. 10/395,973
Filed: March 25, 2003
Attorney Docket No. MS303027.1
(MSFTP411US)
For: IMPLEMENTATION OF ALIAS PRESERVING STRUCTURAL SUBTYPING WITH PRECISE TYPES USING TRANSPARENT ADAPTERS

: DECISION ON
: PETITION

This is a decision on the petition, filed June 6, 2003 (certificate of mailing date June 3, 2003), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed May 28, 2003.

The application was filed on March 25, 2003. On May 28, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 1-7, as described in the specification, appeared to have been omitted.

Petitioners request that Figures 1-7 be accorded a filing date of March 25, 2003 on the basis that 7 sheets of drawing figures, including Figures 1-7, were received in the Patent and Trademark Office (PTO) on March 25, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 25, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of formal drawing figures were filed on March 25, 2003. MPEP 503.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**.

Pursuant to petitioners' authorization, the $130 petition fee will be refunded to deposit account no. 50-1063.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 25, 2003**, using the copy of Figures 1-7 submitted with the instant

petition. Office records will be corrected to show that 7 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
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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SALT LAKE CITY UT 84110

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Salman Akram :
Application No. 10/395,974 :
Filed: March 25, 2003 :
Attorney Docket No. 2269-3918.5US (98-1298.05 :

ON PETITION

This is a decision on the petition, filed September 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 July 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090924

DATE : September 24, 2009

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction on Patent No.: 6722366

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: /Justine R. Yu/ **Art Unit** 3771

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Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, Michigan 48303

JUL 12 2005

TECHNOLOGY CENTER 3600

In re Patent No. 6,877,806
Issue Date: April 12, 2005
Serial No. 10/395,979
Filed: March 25, 2003
For: FOLDING TRAY ASSEMBLY

: ON PETITION
: TO CORRECT
: INVENTORSHIP
: UNDER 37 CFR 1.324

This is a decision on Petition filed June 1, 2005 to correct inventorship under 37 CFR 1.324.

The Petition is **GRANTED.**

The patented file is being forwarded to Certificates of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Peter M. Cuomo
Supervisory Patent Examiner
Art Unit 3636

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,877,806 Patented: April 12, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 USC 256, it has been found that the above-identified patent, through error and without an deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Mark L. Cutshall
Joseph L. Parker
Lawrence A. Scott
John E. Carlson

Peter M. Cuomo
Supervisory Patent Examiner
Art Unit 3636

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OFFICE OF PETITIONS

DUANE MORRIS, LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396

In re Patent No. 6,807,006
Issued: October 19, 2004
Application No. 10/396,029
Filed: March 25, 2003
Attorney Docket No. D3301-00100

ON PETITION

This is a decision on the petition filed November 17, 2004, to have the terminal disclaimer filed March 2, 2004, replaced with the terminal disclaimer filed with the instant petition. The petition will be treated as a request to have the terminal disclaimer filed November 17, 2004, noted in the record.

The request is **granted**.

It is noted that since the filing of the terminal disclaimer in March 2, 2004, the subject application has matured into United States Patent 6,807,006. As prosecution of the application is closed, the terminal disclaimer of March 2, 2004, cannot be vacated or withdrawn. It is appropriate, however, to note the terminal disclaimer filed November 17, 2004, as being received.

Accordingly, the terminal disclaimer filed November 17, 2004, is noted as being received and will be placed in the application file.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 3

Alexander M. Gerasimow
Allen-Bradley Company, LLC
1201 South Second Street
Milwaukee, WI 53204-2496

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Gasperi et al. :
Application No. 10/396,055 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 02AB146/YOD ALBR:0132 :

This is a decision on the paper filed June 23, 2003, which is being treated as a petition under 37 CFR 1.181, seeking to vacate the Filing Receipt issued for application no. 10/405,014.

The petition is **dismissed**.

If petitioner wishes the Office to take action for application no. 10/405,014, then a petition should be filed in that application rather than application no. 10/396,055. However, as a courtesy, the Office will briefly address the merits of the petition.

The instant application was filed by Express Mail on March 25, 2003.

On March 27, 2003, Patrick Yoder, an attorney of record, sent a letter to the assignee stating, "Please find enclosed the Application and associated papers, which we filed with the U.S. Patent and Trademark Office for the above-referenced patent application on March 25, 2003."

On March 27, 2003, or thereafter, a copy of the original application papers and a copy of the March 27, 2003 letter were mailed to the Office. The second set of application papers were received on April 2, 2003. A copy of the March 27, 2003 letter filed with the application papers in 10/405,014 is attached.

Since two separate applications were mailed to the Office on two separate dates, the Office did not act incorrectly in assigning two separate filing dates and application numbers. Therefore, the Office will not vacate the second filing receipt.

The file is now being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of March 27, 2003 letter from attorney to assignee

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEVIN L. DAFFER
CONLEY ROSE & TAYON, P.C.
P.O. BOX 3267
HOUSTON, TX 77253-3267

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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
David A. Close et al :
Application No. 10/396,056 :
Filed: March 25, 2003 :
Attorney Docket No. 5840-00100 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 21, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on March 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 14, 2005 accompanies this decision on petition.

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.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Kevin L. Daffer
P.O. Box 684908
Austin, TX 78768-4908

Attachment: Notice Regarding Rescission of Nonpublication Request

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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Application of :
Nahar, et al. :
Application No. 10/396,104 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. U 014492-7 :

This is a decision on the petition filed on February 13, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on December 1, 2006. This Office action set a shortened statutory period for reply of three (3) months. The application became abandoned on June 2, 2007. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 1641 for consideration of the RCE, filed February 13, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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CHARLES N. QUINN
FOX ROTHSCHILD LLP
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Peter Bressler et al :
Application No. 10/396,109 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 81699.00101 :

This is a decision on the petition under 37 CFR 1.313(a), filed March 17, 2006, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue because inconsistencies between the drawings and specification requiring correction have been discovered and that an amendatory paper "will be submitted shortly."

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 will be charged to petitioner's deposit account.

The petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. While petitioner states that there are inconsistencies between the drawings and the specification, petitioner has not pointed out the particular inconsistencies nor has an amendment been submitted to correct the noted inconsistencies. Petitioner is advised that, prior to payment of the issue fee, an amendment could have been submitted pursuant to the provisions of 37 CFR 1.312 to correct the alleged inconsistencies, bearing in mind that entry of such an amendment is not a matter of right. Nevertheless, even if an amendment had been

submitted with the petition, this would not have constituted a good and sufficient reason for withdrawing the application from issue, since action could have been taken on the amendment without withdrawing the application from issue. Further, there are other avenues open to applicant to have an amendment considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have any amendment considered. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

There is no indication that the issue and publication fees have been paid, although these fees were due on or before March 15, 2006. However, the authorization appearing in the petition of March 17, 2006, and having a certificate of mailing date of March 15, 2006, will be construed as an authorization to charge the issue and publication fees to petitioner's deposit account in order to maintain pendency of this application. Accordingly, petitioner's deposit account No. 50-1943 will be charged $1,000 for the issue and publication fees, which fees are not refundable. Petitioner should return Part B – Fee(s) Transmittal form to the Office if it is desired to have the information normally found on Part B – Fee(s) Transmittal form printed on the patent.

Petitioner is advised that any future petition to withdraw from issue must now comply with the provisions of 37 CFR 1.313(c) in view of payment of the issue fee. The petition to withdraw from issue, and any accompanying papers (such as the RCE, amendment, IDS, etc.) may be sent directly to the Office of Petitions' facsimile number at 571-273-0025.

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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DEC 0 7 2004

TECHNOLOGY CENTER 3600

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re application of : **DECISION ON PETITION**
John G. Walsh, et al. : **TO MAKE SPECIAL**
Application No. 10/396,134 : **(COUNTER TERRORISM)**
Filed: March 25, 2003
For: METHOD AND SYSTEM FOR ENTERPRISE BUSINESS PROCESS MANAGEMENT

This is in response to the petition filed on July 7, 2004 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.

Applicants' invention pertains to a software system and method for reducing the time and costs associated with integration of various software applications used by different entities. Petitioner states that the "various software applications currently in use by various government agencies, for example the Department of Homeland Security, are not designed to work together, and are not designed to work together with software applications in use by foreign governments and other international agencies." Petitoner further states that "in addition to the time and expense, delays in achieving integration of the various software applications used by all the government agencies may allow a terrorist threat to go undetected and threaten the nation's security." According to petitioner, the present invention overcomes time consuming and expensive delays in achieving integration of software applications used by government agencies.

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 12/2/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2006

TO SPE OF : ART UNIT 3632 (P.E. Gwendolyn Baxter)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/396141 Patent No.: 6,983,917

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please see the specification, and the grammar for claim changes.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The requested changes have been approved. However, the citation of column 4, line 34 perhaps should read line 33.

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

SPE **Art Unit** 3632

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sid Chaudhurl et al :
Application No. 10/396,151 :
Filed: March 25, 2003 :
Attorney Docket No. 1999-136A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 23, 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 November 24, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2613 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Gary H. Monka
Canavan & Monka LLC
250 State Route 28, Suite 207
Bridgewater, NJ 08807

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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
10/396,151	03/25/2003	Sid Chaudhuri	1999-136A

CONFIRMATION NO. 6466

OC000000025854428

26652
AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

Date Mailed: 09/17/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/21/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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
10/396,151	03/25/2003	Sid Chaudhuri	1999-136A

CONFIRMATION NO. 6466

OC000000025854427

33217
AHSAN & ASSOCIATES
P.O. BOX 251
HOPEWELL JUNCTION, NY 12533

Date Mailed: 09/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/21/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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JAN 2 9 2008

OFFICE OF PETITIONS

In re Patent No. 7,065,612 :
Issue Date: June 20, 2006 :
Application No. 10/396,154 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 8021-135 (SS-17617-US) :

This is a decision on the petition filed August 3, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add an assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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PLEVY & HOWARD, P.C.
P.O. BOX 226
FORT WASHINGTON, PA 19034

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OFFICE OF PETITIONS

In re Application of :
Kurtz et al. :
Application No. 10/396,174 :
Filed: March 25, 2003 : ON PETITION
Title of Invention: :
STOP ASSEMBLY FOR A BEAM :
TYPE LOAD CELL :

This is a decision on the Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181, filed December 12, 2005. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the final Office action, mailed December 14, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an Amendment in reply to the Office action on March 15, 2005; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed April 8, 2005.

No complete and proper reply having been received, the application became abandoned March 15, 2004. A Notice of Abandonment was mailed on October 14, 2004. The Notice of Abandonment was returned as undeliverable by the United States Post office on December 12, 2004.

Applicant's Assertion

Applicant files the instant petition and asserts that a Request for Continueed Examination and Petition for three (3) month extension of time and fee were timely filed in this Office on June 13, 2005. In support of this assertion, Applicant files a copy of a return receipt postcard acknowledging receipt by this

Office of, *inter alia*, a Request for Continueed Examination ("RCE"), and Petition for three (3) month extension of time and fee on June 13, 2005. A review of the return-receipt postcard confirms Applicant's assertion.

"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.

In view of the above, the holding of abandonment of the above-identified application is hereby withdrawn. No petition fee has been charged and none is due.

The application is being referred to Technology Center Art Unit 2855 for processing of the RCE.

Telephone inquiries should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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OFFICE OF PETITIONS

In re Application of :
Anthony D. Kurtz :
Application No. 10/396,176 : DECISION ON PETITION
Filed: March 25, 2003 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Requests to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 reason set forth in the request, "files were reassigned to the below mentioned firm . . . ," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions at the time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Anthony D. Kurtz
256 Hempstead Road
Ridgewood, NJ 07450

cc: The Plevy Law Firm
10 Rutgers Place
Trenton, NJ 08618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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APR 24 2008

OFFICE OF PETITIONS

In re Application of :
Anthony D. Kurtz :
Application No. 10/396,176 : DECISION ON PETITION
Filed: March 25, 2003 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 29, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because attorneys/agents of record were appointed by customer number and should be withdrawn by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address as noted on the request to withdraw. If this firm would like to receive future correspondence regarding this application, the proper power of documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: The Plevy Firm
10 Rutgers Place
Trenton, NJ 08618

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P.O. BOX 226
FORT WASHINGTON PA 19034

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Anthony D. KURTZ :
Application No. 10/396,176 : DECISION ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 30, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 01, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 25, 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1115 extension of time fee submitted with the petition on May 15, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2811 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **THE PLEVY LAW FIRM**
10 RUTGERS PLACE
TRENTON NJ 08618

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Commissioner for Patents
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KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
THREKEL, David V. :
Application No.: 10/396,178 :
Filing Date: March 24, 2003 :
Docket No.: THREL-40829 :
For: AMUSEMENT RIDE :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on September 27, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Corrected Application Papers mailed June 03, 2003. The Notice set a two (2) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective midnight on August 03, 2003. A Notice of Abandonment was mailed on June 09, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of replacement drawings, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being returned to Office of Initial Patent Examination for continued processing.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
JAYCOX et al :
Application No.: 10/396,181 : DECISION ON PETITION
Filing Date: March 25, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: PE0680 US NA :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 14, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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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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DAVID PETERSON
THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND CA 94623-1305

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Brian K. Cartwright et al :
Application No. 10/396,193 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. 370.40 :

This is a decision on the petition filed July 6, 2004, under 37 CFR 1.181(a), to Withdraw Holding of Abandonment or, in the alternative, under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) to revive the above-identified application is **DISMISSED** as moot.

The application was held abandoned for failure to timely reply to the Notice To File Corrected Application Papers mailed November 24, 2003.

The petition states that a response to the Notice was timely filed on February 27, 2004. To support this assertion, the petitioner has submitted a copy of the required reply showing receipt in the USPTO on February 27, 2004. Additionally, a request for a one month extension of time was also included with the reply.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

COPY MAILED

NOV 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Atala et al.	:	
Application No. 10/396,202	:	ON PETITION
Filed: 25 March, 2003	:	
Attorney Docket 101353-214	:	

This is a decision on the petition filed on 25 August, 2003, requesting that the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed on 24 June, 2003, be withdrawn.

The petition is **dismissed**.

The application was filed on 25 March, 2003. However, on 24 June, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 25 March, 2003, and advising applicants that Figures 6-9 described in the specification appeared to have been omitted.

In response, the present petition was filed on 25 August, 2003 (certificate of mailing date 21 August, 2003), accompanied by seven (7) sheets of drawings containing Figures 6, 7A-B, 8A-B, and 9A-B. Petitioners concede that Figure 6-9 were not present on filing, but argue that this application is a continuation of prior Application No. 09/601,257, which is a US national stage filing under 35 U.S.C. § 371 of International Application No. PCT/US98/22963 which includes the missing drawings. Petitioners further assert that the present application incorporates by reference the prior U.S. application, No. 09/601,257.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing Figures were deposited on 25 March, 2003, nor request the 25 August, 2003, (the date the missing Figures were supplied) filing date. Rather, petitioners assert that the missing figures were part of a copending application which the present application incorporated by reference.

It is noted that the Utility Patent Application Transmittal and the preliminary amendment filed with the original application papers states that the present application is a continuation of Application No. 09/601,257, the entire disclosure of which is hereby incorporated by reference.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 6, 7A-B, 8A-B, and 9A-B described in the

specification are not new matter if they were a part of the disclosure of the prior application.

Accordingly, the petition is dismissed.

The seven (7) sheets of drawings submitted with the present petition on 25 August, 2003, will not be entered or used during the prosecution of this application, but will be retained in the application file. However, applicant may resubmit the omitted sheets as an amendment for consideration by the examiner under Sections 608.02(p) and 608.04 of the Manual of Patent Examining Procedure.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 25 March, 2003, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 04/21/2010

Applicant	: Anthony Atala	: DECISION ON REQUEST FOR
Patent Number	: 7572221	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/396,202	: OF WYETH
Filed	: 03/25/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 05/18/2010

Applicant : Anthony Atala
Patent Number : 7572221
Issue Date : 08/11/2009
Application No: 10/396,202
Filed : 03/25/2003

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **478** 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** 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 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 deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

DEC 24 2003

Paper No. 5

In re Application of :
David Alan Barr : DECISION ON PETITION
Application No. 10/396,205 :
Filed: March 25, 2003 :
Attorney Docket No. KIDK01-00009

This is a decision on the petition to make special as resubmitted by facsimile transmission on December 4, 2003. The resubmission has been reviewed and accepted as a duplicate submission, and has been accorded a filing date of November 5, 2003. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3727, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Patent Examining Groups 3710 and 3720

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

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DIW 09-03

Paper No. 6

ROBERT G. LEV
4766 MICHIGAN BOULEVARD
YOUNGSTOWN OH 44505

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Mullins and Boucher :
Application No. 10/396,216 : DECISION ACCORDING STATUS
Filed: 24 March, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 0036-042 (b) :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 September, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Robert Boucher, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have shown that a copy of the application papers was sent by Federal Express to the last known address of the non-signing inventor, but the inventor refused in writing to sign the declaration, naming him as a joint inventor along with Ward Mullins, without compensation.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW 09-03

Robert Boucher
68085 Valley Vista Drive
Cathedral City, CA 92234

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of
Mullins et al.
Application No. 10/396,216
Filed: 24 March, 2003
For: MICRO EDITION DYNAMIC OBJECT-DRIVEN DATABASE MANIPULATION AND MAPPING SYSTEM

Dear Mr. Boucher:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ROBERT G. LEV
4766 MICHIGAN BLVD.
YOUNGSTOWN OH 44505

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

MAR 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
WOLFE
Application No. 10/396,229
Filed: March 24, 2003
For: **APPARATUS FOR VIEWING TELEVISION WITH PAUSE CAPABILITY**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on June 9, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the files repository.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Bradley J. Hulbert
McDonnell, Boehnen, Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606-6709

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRADLEY J HULBERT
MCDONNELL BOEHNEN HULBERT & BERGOFF
300 SOUTH WACKER DRIVE
CHICAGO IL 60606-6709

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Wolfe, et al.	:	
Application No. 10/396,229	:	ON PETITION
Filed: March 24, 2003	:	
Attorney Docket No. 18235-07037	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 18, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed March 21, 2006. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on January 12, 2007.

A review of the file reveals that the Office action, for reasons not apparent, was returned to the Office as undeliverable. The action was addressed to the proper address of record.

The matter is being forwarded to Group Art Unit 2621 for re-mailing of the March 21, 2006 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Christopher Dow and Philippe Pignon
Application No.10/396,230
Filed: March 24, 2003
Attorney Docket No. 03-517
Title of Invention: SYSTEM AND METHOD FOR AGGREGATING COMMERCIAL NAVIGATION INFORMATION

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 30, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to the non-signing inventor's last known address via Federal Express. The non-signing inventor's failure to respond to the application papers sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Christopher Dow
742 Loma Verde Avenue
Palo Alto, California 9403

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Christopher Dow and Philippe Pignon
Application No.10/396,230
Filed: March 24, 2003
Attorney Docket No. 03-517
Title of Invention: SYSTEM AND METHOD FOR AGGREGATING COMMERCIAL NAVIGATION INFORMATION

: LETTER

Dear Mr. Dow:

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

Sean M. Sullivan
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PARK & SUTTON LLP
3255 WILSHIRE BLVD
SUITE 1110
LOS ANGELES CA 90010

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Seung Woo Lee :
Application No. 10/396,246 : DECISION GRANTING PETITION
Filed: March 26, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1116.04 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 3, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file is being referred to Technology Center AU 3742.

Karen Ceasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE. A. Shoap

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/396,249

Paper No.: _____

DATE : 6/14/05

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction on Patent No.: 6886261

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Fig 8 should be published.

DOUGLAS D. WATTS
PRIMARY EXAMINER

Patentee is asking that the published O.G. Fig should be Fig 8. The rest of the write up can be ignored. If the O.G. front page figure can be corrected, please do.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700

Allan N. Shoap
Supervisory Patent Examiner

3724
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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TYCO TECHNOLOGY RESOURCES
4550 NEW LINDEN HILL ROAD, SUITE 140
WILMINGTON DE 19808-2952

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OCT 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Nagle et al. :
Application No. 10/396,251 :
Filing Date: 25 March 2003 :
Attorney Docket No. 18217-501NATL :

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 October 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present 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).

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(s), 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) above.

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

The $1370.00 fee required by 37 CFR 1.78(a)(3)(ii) was paid on October 17, 2005.

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 George Dombroske at (571) 272-3283.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

---

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

TYCO TECHNOLOGY RESOURCES
4550 NEW LINDEN HILL ROAD, SUITE 140
WILMINGTON DE 19808-2952d

In re Application of :
Nagle et al. : DECISION ON PETITION
Application No. 10/396,251 :
Filed: 25 March 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18217-501NATL :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 2, 2006, 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 amendments filed with the previous and instant petition.

The petition is **GRANTED**.

The present 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).

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.

As explained in the Decision mailed on October 6, 2006, the petition filed on October 17, 2005 complied with the requirements for a grantable petition under 37 CFR 1.78(a)(3) to the extent that (2) the surcharge fee required by 37 CFR 1.17(t) had been submitted; and (3) the petition contained a proper statement of unintentional delay. However, the petition filed on October 17, 2005 did not satisfy requirement (1) for a reference to the prior-filed nonprovisional application

included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii). The reference was deemed defective because it included an improper incorporation by reference statement. The instant renewed petition is accompanied by a further amendment deleting said improper incorporation by reference statement. As such, requirement (1) has now been satisfied. 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 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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to George Dombroske at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2817 for appropriate action on the amendment filed on November 2, 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 application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Yao and Whitham	:	DECISION REFUSING STATUS
Application No. 10/396,257	:	UNDER 37 CFR 1.47(a)
Filed: 24 March, 2003	:	
Atty Docket No. 2002P16928US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 15 December, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 24 March, 2003, without an executed oath or declaration.

Accordingly, on 13 May, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2)-month period for reply was set.

In response, on 15 December, 2003 (certificate of mailing date 17 October, 2003), petitioners filed a five (5) month extension of time, along with a declaration naming Chong Guo Yao and Kenneth Whitham as joint inventors and signed by joint inventor Whitham

on behalf of himself and joint inventor Yao. The present petition was also filed.

Petitioners state that "execution papers" were sent to the non-signing inventor, but the inventor refused in an email to sign and return the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not provided proof that Yao was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). The letter sent to joint inventor Yao on 13 August, 2003, states only that a declaration and power of attorney were enclosed. However, in order for a Rule 47 petition to be granted, the inventor **must** be sent or given a copy of the entire application. Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 19-2179, as authorized in the extension of time filed on 15 December, 2003.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of : DECISION ACCORDING STATUS
Yao and Whitham : UNDER 37 CFR 1.47(a)
Application No. 10/396,257 :
Filed: 24 March, 2003 :
Atty Docket No. 2002P16928US :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 16 March, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventor, Chong Guo Yao. However, the non-signing inventor did not return an executed declaration listing him as a joint inventor along with Kenneth Witham.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Senthil K. Subramanian et al :
Application No. 10/396,265 :
Filed: March 25, 2003 :
Attorney Docket No. 02-5564 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 18, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 16, 2006. Accordingly, the date of abandonment of this application is September 19, 2006. A Notice of Abandonment was mailed on October 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision accepting the delayed payment of the issue fee.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 3

Hewlett-Packard Development Company
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

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AUG 2 7 2003

OFFICE OF PETITIONS

In re Application of
Ward Scott Foster, et al.
Application No. 10/396,271
Filed: March 24, 2003
Attorney Docket No. 10016141-1

DECISION GRANTING PETITION

This is a decision on the petition filed August 5, 2003, requesting that the above-identified application be accorded a filing date of March 24, 2003, rather than the presently accorded date of March 25, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED.**

Petitioner alleges that the application was deposited in Express Mail Service on March 24, 2003. In support, the petition is accompanied by a copy of the "USPS Track and Confirm" from the USPS internet site, showing Express Mail receipt No. EV214167845US (the same Express Mail number found on the original application papers located in the official file) was accepted at the USPS on March 24, 2003.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of March 24, 2003.** Thereafter, the application file will be forwarded to Technology Center 2131 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/13/2006

TO SPE OF : ART UNIT 3700 (3727)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,040,810

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER
SPE

3782
Art Unit

PTOL-306 (REV. 7/03)
U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MAR 0 3 2006

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of :
Takumichi Sutani et al :
Application No. 10/396,309 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. 03180.0318 :

This is a decision on the petition, filed March 1, 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 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1756 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD, SUITE 200
VIENNA, VA 22182-3817

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,126,572 :
Issue Date: October 24, 2006 :
Application No. 10/396,329 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. 90416/02 :

This is a decision on the petition filed April 22, 2008 and resubmitted on May 13, 2009 which is being treated as a petition under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Niomi Farmer at (703) 308-9250 ext. 119.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Fax (571) 270-9753.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 10 2010

OFFICE OF PETITIONS

MCGINN INTELLECTUAL PROEPRTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Patent No. 7,126,572	:	
Issue Date: October 24, 2006	:	
Application No. 10/396,329	:	DECISION ON PETITION
Filed: March 26, 2003	:	
Attorney Docket No. 90416/02	:	

This is a decision on the petition under 37 CFR 1.182, filed November 30, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Office records show that a second patent grant was mailed on July 15, 2009, to the above address. Therefore, as authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McGuire Woods LLP
Tysons Corner
1750 Tysons Boulevard, Suite 1800
McLean VA 22102-4215

COPY MAILED

NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Jens GEBHARDT et al :
Application No. 10/396,364 : DECISION ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. 06580021AA :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 2, 2006 (April 30, 2006, the due date, is a Sunday). A Notice of Abandonment was mailed on August 11, 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, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of January 31, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3752 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 May 18, 2007.

Telephone inquiries concerning this decision 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 4

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Liang-Fu Xie et al	:	
Application No. 10/396,367	:	NOTICE
Filed: March 26, 2003	:	
Attorney Docket No. P23443	:	

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 Wan Laymon at (571) 272-3220.

This file is being forwarded to Technology Center AU 3679.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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JAN 18 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nobuo Watanabe et al :
Application No. 10/396,377 :
Filed: March 26, 2003 :
Attorney Docket No. 114272

This is a decision on the petition, filed January 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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).

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attn: Petitions Branch
Madison West Building
600 Delaney St.
Alexandria, VA 22314

In re the Application of

Nobuo WATANABE et al.

Application No.: 10/396,377

Filed: March 26, 2003

Confirmation No.: 6759
Allowed: 09/29/2004
Group Art Unit: 2873
Examiner: B. Thomas
Docket No.: 114272

RECEIVED
JAN 14 2005
OFFICE OF PETITIONS

For: PROJECTION LENS, PRODUCING METHODS OF PROJECTION LENS AND PROJECTOR HAVING THE PROJECTION LENS

PETITION FOR WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(c)(2)

Assistant Commissioner for Patents
Washington D.C. 20231

Sir:

Applicants hereby petition that the above-identified application be withdrawn from issue pursuant to 37 CFR 1.313(c)(2) to permit consideration of an Information Disclosure Statement Under §1.97 in a Request for Continued Examination. Attached hereto are a Request for Continued Examination and an Information Disclosure Statement.

Check No. 162523 in the amount of $130.00 is attached in payment of the required Petition Fee. Please charge any fees or credit any overpayment of fees to Deposit Account No. 15-0461.

Should there be any questions concerning this matter, any responsible officials at the U.S. Patent and Trademark Office are requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

01/18/2005 AKELLEY 00000006 10396377
01 FC:1464 130.00 OP

James A. Oliff
Registration No. 27,075

Gang Luo
Registration No. 50,559

JAO:GXL/sqb
Attachments:
Request for Continued Examination
Information Disclosure Statement
Date: January 14, 2005

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

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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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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JUN 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koji Takito et al :
Application No. 10/396,386 :
Filed: March 26, 2003 :
Attorney Docket No. 115142 :

This is a decision on the petition, filed June 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 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 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).

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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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

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NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
John J. Davis	:	
Application No. 10/396,424	:	DECISION GRANTING PETITION
Filed: March 26, 2003	:	
Attorney Docket No. APV31613	:	

This is a decision on the petition, filed June 8, 2005, 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 March 24, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within

45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A projected publication date will be assigned and will be communicated to the applicants in a separate correspondence, in due course.

The petition fee and the publication fee have been applied.

This matter is being referred to the Pre-Grant Publications Division for a mailing of Notice Regarding Rescission of Non-Publication Request.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Barnes and Thornburg
11 South Meridian
Indianapolis, IN 46204

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Lu Hao Leng	:	
Application No. 10/396,431	:	DECISION GRANTING
Filed: March 26, 2003	:	PETITION
Attorney Docket No. 20341/71889	:	

This is a decision on the petition filed January 21, 2004, which is being treated as a request that the above-identified application be accorded a filing date of March 26, 2003.

The petition is **GRANTED**.

The application was filed on March 26, 2003. However, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" on January 8, 2004 stating that the application was deposited without drawings.

Petitioner has a copy of a postcard receipt acknowledging receipt of "3 sheets of 7 Formal Drawings" on March 26, 2003.

This application file is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of March 26, 2003, with an indication on the filing receipt that 3 sheets of drawings were present on filing and using the 3 sheets of drawings containing Figures 1-6 supplied with the instant petition.**

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

MAIL

DEC 16 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Robert Hickling
8306 Huntington Road
Huntington Woods MI 48070

In re Application of	:	
Robert Hickling	:	
Application No. 10/396,541	:	DECISION ON PETITION
Filed: March 25, 2003	:	TO MAKE SPECIAL
For: ACOUSTIC MEASUREMENT METHOD AND APPARATUS	:	

This is a decision on the petition to make special filed March 25, 2003 (paper No. 2) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Mr. Robert Hickling, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/27/06

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/396541** Patent No.: **7058184**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes are directed to matters of form not affecting the scope of the invention.

SPE

2615
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,058,184 B1

APPLICATION NO.: 10/396,541

ISSUE DATE : June 6, 2006

INVENTOR(S) : Robert Hickling

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

IN THE SPECIFICATION

Col. 7, Line 28, After "where" delete [kc=2nf] insert -- $kc=2\pi f$ --
Col. 10, Line 44, After "squared" delete [per second]
Col. 10, Line 58, After "units of pascals" delete [per hertz]
Col. 11, Line 12, Before "The amplitude" delete [per hertz]

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Steven L. Permut
Reising, Ethington, Barnes, Kisselle, P.C.
P.O. Box 4390, Troy, Michigan 48099

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.

JUL 07 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/16/09

Paper No.: _____

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/396530 Patent No.: 6891378 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The following change does not apply: Page 3, Item [56] References Cited Foreign Patent Documents add--WO 98/58270 13/1998. The date 13/1998 does not exist.

/Monica Lewis/ SPE 2838

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Paul A. Farrar et al :
Application No. 10/396,558 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. M4065.0392/P392-A

This is a decision on the petition, filed July 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED
SEP 12 2008

In re Application of :
Sandal et al. :
Application No.: 10/396593 : ON PETITION
Filing or 371(c) Date: 03/25/2003 :
Attorney Docket Number: :
026033.00036 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 1, 2008

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 20, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on December 21, 2007. A Notice of Abandonment was mailed May 7, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. 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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1655 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/396,593	03/25/2003	Indra Sandal	4752-107 US

CONFIRMATION NO. 4034

POA ACCEPTANCE LETTER

4372
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Date Mailed: 09/05/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/01/2008.

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.

/dlwoods/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Gill :
Application No. 10/396,600 : DECISION ON PETITION
Filed: March 26, 2003 : TO WITHDRAW
Attorney Docket No. 07948.0034-00 : 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 26, 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 Erika H. Arner, on behalf of all attorneys of record who are associated with customer No. 22852.

All attorneys/agents associated with the Customer Number 22852 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 April 27, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Harmeet S. Gill
3130 Kilgore Road
Rancho Cordova, CA 95670

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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
10/396,600	03/26/2003	Harmeet S. Gill	7948.0034

CONFIRMATION NO. 4039

OC000000020302778
OC000000020302778

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 09/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/26/2006.

- 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
OPL (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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JUN 2 2004

Office of the Director
Group 3600

Craig W. Roddy
Halliburton Energy Services
P.O. Box 1431
Duncan, OK 73536-0440

In re application of
Jiten Chatterji et al.
Application No. 10/396,606
Filed: March 25, 2003
For: RECYCLABLE FOAMED FRACTURING FLUIDS AND METHODS OF USING THE SAME

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 25, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Jiten Chatterji et al., indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 5/5/04

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JUN 2 2004

Office of the Director
Group 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

In re application of : **DECISION ON PETITION**
Jiten Chatterji : **TO MAKE SPECIAL**
Application No. 10/396,606 : **(APPLICANT'S AGE)**
Filed: March 25, 2003 :
For: RECYCLABLE FOAMED FRACTURING FLUIDS AND METHODS OF USING THE SAME

This is a decision on the petition submitted on March 25, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Chatterji indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 05/26/04

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Paper No. 082004

AUG 30 2004

PEPPER HAMILTON LLP
ONE MELLON CENTER
500 GRANT STREET, 50TH FLOOR
PITTSBURGH, PA 15219

In re Application of:
KOLLURI et al.
Serial No.: 10/396,625
Filed: March 25, 2003
Attorney Docket No.: **124882.301**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 06, 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 James M Singer, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Steven J. Moore, 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: STEVEN J. MOORE
PILLSBURY WINTHROP, LLP
FINANCIAL CENTRE
695 EAST MAIN STREET, P.O. BOX 6760
STAMFORD, CT 06904-6760

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ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
James et al.	:	
Application No. 10/396,635	:	DECISION GRANTING PETITION
Filed: March 25, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BEP002C2/149612	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2643 for appropriate action on the amendment filed September 12, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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COSTA MESA CA 92626

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OFFICE OF PETITIONS

In re Patent No. 6,779,752	:	
Issued: 24 August, 2004	:	
Application No. 10/396,639	:	ON PETITION
Filed: 25 March, 2003	:	
Atty Dckt No. 34261.8000	:	

This is a decision on the petition filed on 2 November, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account, No. 50-0481.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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MICHAEL B. MCNEIL
LIELL & MCNEIL ATTORNEYS PC
P.O. BOX 2417
BLOOMINGTON IN 47402

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of
Mark P. White
Application No. 10/396,670
Filed: March 25, 2003
Attorney Docket No. Rafiki-2

ON PETITION

This is a decision on the petition filed January 22, 2007 under 37 CFR 1.10(e), to accord a filing date of March 25, 2003 to a petition filed under 37 CFR 1.84(a)(2) with three sets of drawings.

A decision mailed September 21, 2006 denied the March 25, 2003 petition under 37 CFR 1.84(a)(2) because three sets of drawings were not included with the petition. Petitioner asserts that three sets of drawings were filed by Express Mail with the petition under 37 CFR 1.84(a)(2) on March 25, 2003 and includes a copy of Express Mail Label EV189950497US and a postcard receipt which bears the same Express Mail number. The "date-in" on the Express Mail Label is March 25, 2003 and the post card receipt is itemized to show that three sets of drawings were included with the petition.

In view of the above, the petition under 37 CFR 1.84(a)(2) was included with three sets of drawings. The petition is therefore **GRANTED**. No fee is due and none is charged.

The application is being forwarded to Technology Center 3733 for further examination in due course as the petition under 37 CFR 1.84(a)(2), filed January 22, 2007 was granted in a decision mailed March 6, 2007.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Tyco Healthcare Group L.P.
c/o I.P Legal Department Mark Kertz Esq.
15 Hampshire Street
Mansfield, MA 02048

Mail Date: 05/06/2010

Applicant	: Michael D. Laufer	: DECISION ON REQUEST FOR
Patent Number	: 7641633	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/396,672	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **719** 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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KEVIN R. SPIVAK
MORRISON & FOERSTER, LLP
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Morgan Richomme :
Application No. 10/396,690 : DECISION ON PETITION
Filed: March 26, 2003 : TO WITHDRAW
Attorney Docket No. 449122053300 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 17, 2007.

The request is **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 1, 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.

There is an outstanding Office action mailed September 20, 2007 that requires a reply from 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 SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/396,690	03/26/2003	Morgan Richomme	449122053300

CONFIRMATION NO. 3453

OC000000026179187

Kevin R. Spivak
Morrison & Foerster LLP
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

Date Mailed: 10/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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OFFICE OF PETITIONS

In re Application of :
Jean-Marc Auffret :
Application No. 10/396,698 : DECISION ON PETITION
Filed: March 26, 2003 : TO WITHDRAW
Attorney Docket No. 449122053800 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on October 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

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MAY 21 2004

In re Application of	:	
John Lampl	:	
Serial No. 10/396,703	:	DECISION ON PETITION
Filed: March 26, 2003	:	TO MAKE SPECIAL
For: FOCUSING METHOD AND APPARATUS FOR LIGHT EMITTING DEVICE	:	

Applicant's petition, filed February 9, 2004, seeks to have this application made special pursuant to the Accelerated Examination 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(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

McDermott, Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

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In re Patent No. 6836256
Issue Date: December 28,2004
Application No. 10396712
Filed: March 26,2003
Attorney Docket No. 4590-139

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 20,2009 . 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)
6836256	2004-12-28	10396712	2003-03-26	4590-139

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kenneth M. Berner/	Date (YYYY-MM-DD)	2009-10-20
Name	Kenneth M. Berner	Registration Number	37093

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061221

DATE : December 21, 2006

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction on Patent No.: 7,123,798

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: Rodney B. Bovernick **Art Unit** 2874

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Marsh Fishmann & Breyfogle LLP
#411
3151 S. Vaughn Way
Aurora, CO 80014

MAILED
FROM DIRECTORS OFFICE
MAR 18 2005
TECHNOLOGY CENTER 3600

In re Application of:
Vaughn Bigelow, et.al.
Application No.10/396,736
Filed: March 25, 2003
Attorney Docket No. 50063-00001

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of at least one of the claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further 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 in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner David Bagnell at (703)-308-2151.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/13/06

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/396736** Patent No.: **7037202**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

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: REFERENCE 3,136,141 TO DONALD SHOULD BE CORRECTED TO FISHER, FULL NAME IS CHESTER DONALD FISHER.
LINE 28, COL. 11 REPLACED "FOR" WITH -FIRST-
(See attached marked up C of C)

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,037,202 B2
DATED : May 2, 2006
INVENTOR(S): BIGELOW et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page
Section (56), References Cited, insert the following:
--1,948,698 2/1934 Christman 279/16
2,811,025 10/1957 Redard 464/50
3,136,141 6/1964 ~~Donald~~ FISHER 464/81--

Column 10
Line 58, after "extends", insert --through said annular ring and--.

Column 11
Line 25, after "said", delete "joint comprises one of a universal joint and a ball and cage constant velocity joint", and insert --first and second shafts are pivotally interconnected to an inside surface of said annular ring--;
Line 28, after "said", delete "universal joint is a ring and pin type universal joint", and insert --first and second shafts are pivotally connected to ~~of~~ FIRST and second pivot axes, respectively, and wherein said first and second pivot axes are perpendicular--;
Line 32, after "second", insert --ring type universal--; and
Line 32, delete "physically", and insert --pivotally--.

MAILING ADDRESS OF SENDER:
Russell T. Manning, Esq.
Registration No. 51,260
MARSH FISCHMANN & BREYFOGLE LLP
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
Telephone: 720-406-0506
Facsimile: 720-406-0520

PATENT NO. 7,037,202 B2

FORM PTO-1050

MAY 24 2006

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Post Office Box 10107
Greenville SC 29603

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Schilling et al.
Patent No. 6837913
Application Number: 10/396,744
Attorney Docket Number: 28559-13
Issue Date :January 4, 2005
Filing Date: March 25, 2003
Title of Invention: Cyclone Separator

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.323 filed on March 24, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11

before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(I)

Petitioner has failed to submit (C), the $100.00 certificate of correction fee pursuant to 37 CFR 1.20 (a). The petition does not authorize charging of the deposit account for the certificate of mailing.

It is noted the March 11, 2005 Notice was incorrect to the extent that a petition under 37 CFR 1.183 is no longer required. See 69 Fed. Reg. 29865 (May 26, 2004).

Further correspondence with respect to this matter may 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 Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
Richard C. KIM et al. :
Application No. 10/396,769 : DECISION ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. GSC-04202/03 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed December 12, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 13, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $$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 the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2872 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of :
CHIANG :
Application No.: 10/396,779 : DECISION ON PETITION
Filing Date: March 26, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: BHT-3228-33 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 12, 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 12, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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Dr. Armen Karapetyan
c/o Dr. A. Yufa
698 Cypress Avenue
Colton, CA 92324

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FEB 16 2006

OFFICE OF PETITIONS

In re Patent No. 6,819,079 :
Issue Date: November 16, 2004 :
Application No. 10/396,791 : ON PETITION
Filed: March 25, 2003 :
Patentee(s): Armen Karapetyan, et. al. :

This is a decision on the petition, filed December 14, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition treated under 37 CFR 1.181 is **DISMISSED**.

Petitioners state that the Letters Patent was not received. Petitioners further state that, "[a]s pro-se applicant we do not have any attorney docket number or record," and "[m]ost Californian residents have the outside Mail Boxes and mail delivery sometimes is unfortunately not-satisfied".

A review of the record indicates no irregularity in the mailing of the Letters Patent, and, in the absence of any irregularity in the mailing, there is a strong presumption that the Letters Patent was properly mailed to the address of record; i.e., Armen Karapetyan, 1935 N. Van Ness Avenue, Los Angeles CA 90068.

This presumption may be overcome by a showing that the Letters Patent was not in fact received. As petitioners are acting pro se, the Office understands that petitioners may not keep a formal docket record system for their correspondence. Nevertheless, petitioners must provide some sort of showing explaining the manner in which petitioners receive mail from the USPTO, maintain files for patent matters, and treat mail received for such patent matters. Additionally, petitioners should provide evidence that they received mail at the N. Van Ness, Los Angeles, California, address for around the period that the Letters Patent would have arrived. In this regard, petitioners should include any available documentary evidence of the mail received, covering a reasonable period after November 16, 2004, to demonstrate nonreceipt of the Letters patent. Furthermore, petitioners must include a statement from any other person at the mailing address at the time who would

have had access to petitioners' mail and who would have had personal knowledge of the nonreceipt of mail from the USPTO around the period the Letters Patent was mailed. Further, a statement should be provided that a search of the mailing residence was conducted but that the Letters Patent was not found. Lastly, petitioners must state that the N. Van Ness, Los Angeles, California, address was a viable address at the time of mailing of the Letters Patent.

If petitioners are unable to provide the required evidence to support a showing of nonreceipt of the Letters Patent, petitioners may wish to consider filing a petition under 37 CFR 1.182 (no showing required for nonreceipt) requesting issuance of a duplicate Letters Patent and submit the required petition fee of $400.

Petitioners have supplied in the petition the above address for notifying the first named inventor of any fees due. It is not clear whether this is an instruction to change the address of record. Therefore, if this was meant as an instruction to the Office to change the correspondence address of record, petitioners must make this clear in any future petition filed.

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 Andrea Smith at (571) 272-3226.

Frances Hicks
Petitions Examiner
Office of Petitions

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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SEP 2 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Salman Akram :
Application No. 10/396,849 :
Filed: March 25, 2003 :
Attorney Docket No. 2269-3918.3US (98-1298.03 :

This is a decision on the petition, filed September 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 April 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed September 21, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

12/2/05

Paper No.:~~20051028~~

DATE : October 28, 2005

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction on Patent No.: 6,866,544

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:

Certificate attached.

T C Patel

SPE: Tulsidas C. Patel **Art Unit** 2839

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BOSTON, MA 02210-2206

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DEC 18 2008

OFFICE OF PETITIONS

In re Application of :
Kazunori Murakami et al :
Application No. 10/396,855 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. G0744.70038US01 :

This is a decision on the petition filed May 14, 2008 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 priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment 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 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.

Before the petition can be granted, petitioner must submit an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6).[1]

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.

David Bucci
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Kazunori Murakami et al :
Application No. 10/396,855 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. G0744.70038US01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed January 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on March 25, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/368,997, which was filed on April 1, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application

after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, 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 Irvin Dingle at (571) 272-3210.

David Buoci
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

GTC BIOTHERAPEUTICS, INC.
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Kazunori Murakami et al :
Application No. 10/396,855 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. G0744.70038US01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 1652 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/396,855	03/25/2003	1652	1075	G0744.70038US01	13	1

CONFIRMATION NO. 4472

CORRECTED FILING RECEIPT

31904
GTC BIOTHERAPEUTICS, INC.
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 05/22/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kazunori Murakami, Galveston, TX;
Perenlei Enkhbaatar, Galveston, TX;
Lillian D. Traber, Galveston, TX;
Donald S. Prough, Galveston, TX;
David N. Herndon, Galveston, TX;
Daniel L. Traber, Galveston, TX;

Power of Attorney: The patent practitioners associated with Customer Number 31904

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/368,997 04/01/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/396,855**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Treatment of lung disorders

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 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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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In re Application of :
William C. Galloway :
Application No. 10/396,873 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. 314-0006US :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 25, 2008, to revive the above-identified application.

The above application became abandoned for failure to file a reply to the Notice of Allowance and Fee(s) Due mailed on May 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $720 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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www.uspto.gov

Arthrocare Corporation
680 Vaqueros Avenue
Sunnyvale, CA 94085-3523

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APR 26 2007

OFFICE OF PETITIONS

In re Application of:
Seth Forester, et al.
Application No.: 10/396,886
Filed: March 25, 2003
Atty's Docket No.: OP-9-1

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 06, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 18, 2006.

On September 06, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE CA 94085-3523

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of :
Seth A. Foerster et al :
Application No. 10/396,886 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. OP-09-1 :

This is a decision on the petition, filed May 3, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 3731 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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John S. Artz
Artz & Artz, P.C.
Suite 250
28333 Telegraph Road
Southfiled MI 48034

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Wayne Campbell :
Application No. 10/396,905 : DECISION GRANTING PETITION
Filed: March 25, 2003 :
Attorney Docket No. WWC 0101 PUS :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due, mailed on September 29, 2004. The Notice set a three-month statutory period to respond. Accordingly, this application became abandoned on December 29, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner paid the requisite fees and made the proper statement of unintentional delay.

The application will be forwarded to the Office of Patent Publications. Questions relating to the issuance of a patent may be directed to the Office of Patent Publications, Customer Service, at 1-888-786-0101.

Telephone inquiries concerning this matter 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
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Paper No. 7

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JUL 2 5 2003

OFFICE OF PETITIONS

INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST ST
TWELFTH FLOOR
SAN JOSE CA 95113

In re Application of :
Kwok Chung Wong :
Application No. 10/396,925 : DECISION ON PETITION
Filed: April 14, 2003 :
Attorney Docket No. KCWONG.PT1 :

This is a decision on the paper titled "Petition Related to Entitlement of Filing Date for Nonprovisional Application (Notice of Incomplete Nonprovisional Application)", filed June 23, 2003, which is being treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of April 14, 2003.

Application papers in the above-identified application were filed on March 26, 2003. However, on June 2, 2003, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.

Petitioner asserts that he did in fact file drawings on April 14, 2003. In support thereof, petitioner submitted a postcard receipt identifying this application, itemizing "Drawings w/ 4 sheets - Formal" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 14, 2003, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

While petitioner's postcard receipt does not establish that petitioner filed a declaration covering the drawings submitted on April 14, 2003, a declaration is not required to accord an application a filing date.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 14, 2003, using the application papers received in the Office on that date and 4 sheets of formal drawings resupplied on petition filed June 20, 2003. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
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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CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Boqin Sun et al	:	
Application No. 10/396,941	:	ON PETITION
Filed: March 24, 2003	:	
Attorney Docket No. T-6238	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 the publication fee in a timely manner in reply to the Notice of Allowance mailed January 14, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 15, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Patent Publication to oversee review of the drawings filed with the instant petition on May 9, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of	:
Vandentop and Nair	: DECISION ACCORDING STATUS
Application No. 10/396,945	: UNDER 37 CFR 1.47(a)
Filed: 24 March, 2003	:
Atty Dkt No. 884.836US1	:

This is in response to the petition filed under 37 CFR 1.47(a) on 26 August, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was mailed to the non-signing inventor, Rajendran Nair on two occasions. However, the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with Gilroy Vandentop, and also sent back letters expressing a refusal to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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JESS LEE HETZNER
OREQ CORPORATION
42306 REMINGTON AVE.
TEMECULA, CA 92590

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Jess Lee Hetzner et al :
Application No. 10/396,951 : ON PETITION
Filed: March 24, 2003 :
Attorney Docket No. 70816.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 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 July 26, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 27, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1772 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD, CT 06902

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Michael Sean McBrayer :
Application No. 10/396,959 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No.: ISD-078C :
:

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 27, 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 3731 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON, TX 77070

Mail Date: 04/21/2010

Applicant	: William C. Galloway	: DECISION ON REQUEST FOR
Patent Number	: 7664896	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/396,969	: 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 **1451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Kurt E. Spears and Kip O. Morgan :
Application No. 10/396,972 :
Filed: March 25, 2003 :
Title: SYSTEM AND METHOD FOR :
COMPENSATING FOR NOISE IN IMAGE :
INFORMATION :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 5, 2005.

The above-identified application was filed on March 25, 2003 without an executed oath or declaration and naming Kurt E. Spears and Kip O. Morgan as joint inventors.

Accordingly, on May 20, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for/its late filing.

On August 19, 2003, an executed declaration in compliance with 37 CFR 1.63 and 1.64 was filed with a one (1) month extension of time.

As a fully executed declaration in compliance with 37 CFR 1.63 and 1.64 has been submitted and accepted in the above-identified application, a petition under 37 CFR 1.47(a) is not necessary or appropriate. See MPEP 409.03.

Accordingly, the petition is dismissed as moot.

The petition fee has not been charged.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 5

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JUL 0 2 2004

Technology Center 2100

In re Application of:
Paul C. KOCHER, et al.
Application No. 10/396,975
Filed: March 24, 2003
For: PAYMENT SMART CARDS WITH HIERARCHICAL SESSION KEY DERIVATION PROVIDING SECURITY AGAINST DIFFERENTIAL POWER ANALYSIS AND OTHER ATTACKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 4, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PROCOPIO CORY HARGREAVES & SAVITCH
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

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APR 12 2004

OFFICE OF PETITIONS

In re Application of :
David Naghi et al :
Application No. 10/396,978 : NOTICE
Filed: March 24, 2003 :
Attorney Docket No. 109821-54 :

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 referred to Technology Center AU 2875.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-07

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Garudadri et al.	:	DECISION ON PETITION TO
Application No. 10/396,982	:	WITHDRAW HOLDING OF
Filed: 03/24/2003	:	ABANDONMENT
Atty. Docket No. 030167	:	

This is a decision on the petition, filed on 20 March, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 1 March, 2007, stating that the application was abandoned for failure to file a reply to the non-final Office action mailed on 14 August, 2006.

Petitioner asserts that a timely reply to the non-final Office action was filed on 14 February, 2007. In support, petitioner has provided, *inter alia*, a copy of the electronic Acknowledgement Receipt showing the filing, on 14 February, 2007, of a three (3) month extension of time and a response to the non-final Office action mailed on 14 August, 2006.

A review of the record reveals that the amendment was filed on 14 February, 2007. Additionally, payment of the fee for a three (3) month extension of time was also received on 14 February, 2007. As such, the showing of record is that a timely response to the Office action mailed on 14 August, 2006, was filed on 14 February, 2007.

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2624 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHELDON R. MEYER, ESQ.
FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco CA 94111-4156

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JUL 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,907,475 :
Issue Date: 06/14/2005 :
Application No. 10/397005 : DECISION ON PETITION
Filed: 03/25/2003 :
Attorney Docket No. PANA-01042US0 :

This is a decision on the petition under 37 CFR 1.182, filed July 10, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is GRANTED.

The Office of Patent Publications is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Denham Stewart
1430 NW 183rd St
Miami FL 33169

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of	:	
STEWART	:	DECISION
Application No. 10/397,019	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final office action mailed February 8, 2005, which set a period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 9, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition does not satisfy requirement (1). A reply addressing the merits of the non-final action mailed February 8, 2005 was not submitted with the petition.

The file does not indicate a change of address had 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. In addition, a copy of PTO/SB/122 (Change of

Correspondence Address) has been enclosed. 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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

enc: Change of Correspondence Address (PTO/SB/122)

cc: Denham Ray Stewart
4222 Inverrary Blvd, Apt. 4206
Lauderhill, FL 33319

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DENHAM RAY STEWART
4222 INVERRARY BLVD., APT. 4206
LAUDERHILL FL 33319

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
STEWART :
Application No. 10/397,019 :
Filed: June 16, 2003 :
Attorney Docket No. (None) :

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed November 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final office action mailed February 8, 2005, which set a period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained.[1] Accordingly, the application became abandoned on May 9, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

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[1] Applicant states in the renewed petition that an extension of time was filed prior to May 8, 2005. No record, however, of a petition for extension of time can be located in the file. Office records also do not show that the requisite fee for an extension of time was charged or taken.

Applicant also appears, in this petition, to request such an extension of time. 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). The present request cannot be granted since the maximum extendable period for reply has expired.

As stated in the previous decision mailed September 19, 2005, the instant petition does not satisfy requirement (1). Petitioner was advised in the decision of September 19, 2005 that the petition under 37 CFR 1.137(b) was ungrantable as lacking, *inter alia*, a reply addressing the merits of the non-final action mailed February 8, 2005, such as a response under 37 CFR 1.111 or continuing application. The instant renewed petition, however, lacks the required reply, e.g., the response under 37 CFR 1.111 or continuing application, indicated as necessary to a grantable petition under 37 CFR 1.137(b). Petitioner is placed on notice that a failure to file a proper response under 37 CFR 1.111 (on papers separate from any renewed petition) or continuing application within the period for response to this decision may be considered an intentional delay in taking such action to revive this application, which delay will preclude the revival of this application under 37 CFR 1.137.

The proposed response necessary to continue prosecution of the above-identified application is a response under 37 CFR 1.111 to the Office action of February 8, 2005 or a continuing application. As indicated in the decision of September 19, 2005, failing to address the merits of the non-final action of February 8, 2005 does not constitute a "response" within the meaning of 37 CFR 1.111 to the Office action of February 8, 2005. It is well established that a petition to revive an abandoned application *must* include the response necessary to continue the prosecution of that application. See Ex parte Richardson, 1906 Dec. Comm'r Pat. 83 (1905). MPEP 714.01 *et seq.* set forth the requirements for a complete and proper response to an Office action. A response under 37 CFR 1.111 must include an amendment or request for reconsideration specifically pointing out the errors in (or pointing out how the amendment overcomes): (1) the drawing objections that the embodiments are not numbered and that angle "A" does not designate a forty-five (45) degree angle as described, (2) the objection to the abstract exceeding 150 words of text (MPEP 608.01(b)), (3) the objections to the specification on pages 4-5 related to Figures 1-3 not found in the drawings and reference numerals "8," "14," and "16" not being found in the drawings, and (4) the rejection of claim 1 under 35 U.S.C. 112, 2nd paragraph on the basis of the claim being indefinite and vague. General allegations are neither a response under 37 CFR 1.111 nor a *bona fide* attempt to provide a response under 37 CFR 1.111. A courtesy copy of the February 8, 2005 office action is included with this decision for your convenience.

Alternately, petitioner may simply file a continuing application. MPEP 201.06 *et seq.* set forth the procedures concerning the filing of a continuing application.

The format and wording of the petition appear to be that of an inexperienced applicant. If applicant is unable to prepare a reply to the action, he should obtain the services of a registered practitioner. The USPTO cannot assist applicant in the prosecution of this application by preparing the response, nor can it assist in the selection of a registered practitioner. In further prosecution, the services of a registered attorney or agent are strongly recommended, especially in view of the complexities of the patent laws and regulations. Likewise, the USPTO cannot recommend the services of a particular attorney or agent to the exclusion of any other. Petitioner may wish to consult his local telephone directory or can obtain a listing of registered practitioners in his area by accessing the USPTO web site at: www.uspto.gov, and then click on "Patents;" and on that page under the caption "Resources;" click on "Locate Registered

Attorneys and Agents." Petitioner may also obtain general information from the Inventor's Assistance Center at 1-800-786-9199 or obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

enc: Office Action dated February 8, 2005

conferee: Brian Hearn

UNITED STATES PATENT AND TRADEMARK OFFICE

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SACCO & ASSOCIATES, PA
P.O. BOX 30999
PALM BEACH GARDENS FL 33420-0999

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OFFICE OF PETITIONS

In re Application of :
STEWART :
Application No. 10/397,019 :
Filed: June 16, 2003 :
Attorney Docket No. 8212-0001 :

DECISION
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

Upon further review, the application became abandoned for failure to pay the sufficient extension of time fee in response to the Notice of Incomplete Reply (Nonprovisional) mailed August 17, 2004. This Notice did not reset the time period and stated that the period of reply remains as set forth in the Notice to File Corrected Applications Paper mailed June 21, 2004. Applicant responded with replacement drawings on October 5, 2004, which did not comply with the requirements set forth in 37 CFR 1.84(u)(1). Also, no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 22, 2004.[1]

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 filing of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the filing of the continuing application is accepted as having been unintentionally delayed.

The applicant paid numerous fees to the Office in response to the various Notices. Applicant paid: an unnecessary petition fee of $130 in response to the Notice of Incomplete Nonprovisional Application Filed mailed May 22, 2003; a necessary $210 two-month extension of time fee on March 31, 2004 in response to the Notice to File Corrected Application Papers mailed December 11, 2003; and an insufficient payment of $210 for a three-month extension of time fee on May 7, 2004 in response to the Notice of Incomplete Reply (Nonprovisional) mailed April 8, 2004. The required three-month extension of time fee due on May 7, 2004 was $475. Using the unnecessary $130 toward the required three-month extension of time fee required for the May 7,

[1] Neither the Office nor the examiner had procedural authority with respect to this abandoned application on or after August 22, 2004. See Lorenz v. Finkl, 333 F.2d 885, 891 142 USPQ 26, 30 (CCPA 1964). This favorable decision on this petition, however, ratifies the actions taken thereafter.

The above-identified application is being construed as being revived solely for purposes of continuity and as a request to expressly abandon the application upon revival. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of the continuation-in-part application U.S. Serial No. 11/332,889. Petitioner must notify the Office if this is **not** a correct interpretation.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Files Repository.

Denise Pothier
Petitions Examiner
Office of Petitions

Conferee: Frances Hicks

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Reynaldo A. Osorio et al :
Application No. 10/397,049 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1759.17207-CIP :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 18, 2006, 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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1) above. In this regard, the Application Serial No. 10/958,600, filed October 5, 2004 has a later filing date than the above identified application. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter 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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

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SEP 18 2008

In re Application of :
Reynaldo A. Osorio et al :
Application No. 10/397,049 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 41914.512 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 22, 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 3733 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/397,049	03/25/2003	3733	440	41914.512	15	3

CONFIRMATION NO. 4415

CORRECTED FILING RECEIPT

46333
HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

Date Mailed: 09/18/2008

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)

Reynaldo A. Osorio, Daly City, CA;
Marialulu Follmer, Santa Clara, CA;
Richard W. Layne, San Francisco, CA;
Ryan P. Boucher, San Francisco, CA;
Karen D. Talmadge, Palo Alto, CA;
Joseph J. Basista, Mountain View, CA;

Assignment For Published Patent Application

Kyphon Inc.

Power of Attorney: The patent practitioners associated with Customer Number 000046333

Domestic Priority data as claimed by applicant

This application is a CIP of 09/827,260 04/05/2001 PAT 6,726,691
which claims benefit of 60/194,685 04/05/2000 ABN
This application 10/397,049
is a CIP of 09/754,451 01/04/2001 PAT 6,899,719
which is a CON of 08/871,114 06/09/1997 PAT 6,248,110

Foreign Applications

If Required, Foreign Filing License Granted: 05/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/397,049**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Methods and devices for treating bone after high velocity and/or trauma fracture

Preliminary Class

606

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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ALEXANDRIA, VA 22313-1450
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Paper No. 6

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Betz
Application No. 10/397,050
Filed: March 24, 2003
Attorney Docket No. 15258-601
For: METHOD OF WELDING SINGLE CRYSTALS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 28, 2003 (certificate of mailing date July 23, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Dr. Jürgen Betz, 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 Dr. Manfred Irsch, a patent attorney employed in the Patent Department of a party with proprietary interest, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration. In addition, prior to receiving the application itself, Dr. Betz stated that he would not sign any patent documents unless he received additional compensation. In addition, petitioner has shown that Sulzer Markets and Technology AG 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 the company. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1700 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JÜRGEN BETZ
KÖNIGSGARTENSTRASSE 8
D-55583 BAD MÜNSTER-EBERNBURG
GERMANY

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AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Betz
Application No. 10/397,050
Filed: March 24, 2003
Attorney Docket No. 15258-601
For: METHOD OF WELDING SINGLE CRYSTALS

LETTER

Dear Dr. Betz:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MARSH FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA, CO 80014

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Matvey B. Shpizel :
Application No. 10/397,052 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 50028-00004 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 15, 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 February 16, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2851 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 6

Henneman & Saunders
714 W. Michigan Ave.
Three Rivers MI 49093

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NOV 13 2003

OFFICE OF PETITIONS

In re Application of
Arthur W. Astrin
Application No. 10/397,055
Filed: March 25, 2003
Attorney Docket No. P2984US1
For: KEYED ANTENNA ADAPTER

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed September 8, 2003 (certificate of mailing September 5, 2003). Petitioner obtained a two-month extension of time to reply. Accordingly, the petition is timely filed.

The petition is **granted**.

Petitioner has shown that Arthur W. Astrin, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Statement of Facts of Larry E. Henneman, 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 Apple Computer, Inc. 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 Apple. The requisite fee have been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to Technology Center 2800 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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Arthur W. Astrin
1051 Greenwood Avenue
Palo Alto, CA 94301

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Arthur W. Astrin :
Application No. 10/397,055 :
Filed: March 25, 2003 :
Attorney Docket No. P2984US1 :
For: KEYED ANTENNA ADAPTER :

LETTER

Dear Mr. Astrin:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Henneman & Saunders
714 W. Michigan Ave.
Three Rivers MI 49093

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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 :

SWEETING, Michael et al. :
Application No. 10/397,109 : DECISION ON PETITION
Filed: March 24, 2003 : TO WITHDRAW
Attorney Docket No. **CF-070** : 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 December 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: **MICHAEL SWEETING**
INNES HOUSE
10 AYLINE LANE, ALDERSHOT, HAMPSHIRE
GULL 3LZ, ENGLAND
UNITED KINGDOM

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

APR - 5 2004

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ALEXANDRIA, VA 22313-1450
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JOHN D. BUCHACA]
1545 HOTL CIRCLE SOUTH, SUITE 150
SAN DIEGO, CALIFORNIA 92108

In re Application of :
David F. Zhou et al. :
Serial No.: 10/397,121 : PETITION TO MAKE SPECIAL
Filing Date: December 18, 2003 :
Attorney Docket No. 37,289

This letter is in response to the Petition, filed December 19, 2003, to make the above-identified application special under the provisions of 37 CFR. ¶ 1.102, based on its relationship to developing treatments and cures for HIV/AIDS and cancer.

DECISION

Applicant has satisfied the provisions of M.P.E.P. 708.02, X. Therefore the petition is **GRANTED.**

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450 or by telephone at (571) 272-0512 or by facsimile transmission at (703) 872-9306.

J Burke

Julie Burke
Special Program Examiner
Technology Center 1600

OIPE
DEC 19 2003
PATENT & TRADEMARK OFFICE

1743

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

WASHINGTON, D. C. 20231

In re application of:	Examiner: Unknown
DAVID F. ZHOU et al.	Art Unit: 1743
Serial No: 10/397,121	
Filed: March 25, 2003	
For: LATERAL FLOW RAPID IMMUNOASSAY TEST DEVICE	

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Mail Stop Petitions Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions to make the present application special on the basis of its relationship to developing treatments and cures for HIV/AIDS and cancer.

Please find the Statement below and a check in the amount of $130.00 covering the fee as set forth in 37 C.F.R. §1.17(h).

STATEMENT

The present invention provides a more effeicent and more discriminative way of rapidly detecting HIV through use of a lateral flow chromatographic immunoassay test device.

12/24/2003 EFLORES 00000061 10397121
01 FC:1460 130.00 OP

REMARKS

Support for the above-statement can be found in the application as filed on page 3, lines 13-19.

Respectfully submitted,

John D. Buchaca
Registration No. 37,289

1545 Hotel Circle South, Suite 150
San Diego, California 92108
Telephone: (619) 294-2922

2128PET3.D15

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Petitions Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 16, 2003 by John D. Buchaca, Reg. No. 37,289.

Signature: _____ Date: 12-16-03

detection a single exogenous infection in which a plurality of different antigen/antibody complex components responsive to that infection appear on the same strip. Yet, the chance of detection is greatly improved when more than one inter-reactive agent is used.

The present invention results from an attempt to improve the efficacy of lateral flow rapid immunoassay test devices, particularly as a convenient tool in the fight against human immunodeficiency virus (HIV) or hepatitis C virus (HCV).

Summary of the Invention

The principal and secondary objects of this invention are to provide a more efficient and more discriminative way of rapidly detecting HIV, HCV and other infections through the use of lateral flow chromatographic immunoassay test devices and thus, avoid the long turn-around time required by use of separate assays using multiple tests such as in a Western Blot assay.

These and other valuable objects are achieved by grouping on a single test strip, lines coated with a plurality of immunoassay complex components that although different, are all responsive to the same pathogenic organism. Each immunoassay complex components may be an antigen whose epitope component will inter-react with an antibody paratope in the sample, or an antibody whose paratope component will inter-react with an antigen epitope.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
Kazumasa Makino :
Application No. 10/397,162 : DECISION GRANTING PETITION
Filed: March 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 115214 :

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of

Naoki Kayahara

Application No. 10/397,163

Filed: March 27, 2003

Attorney Docket No. 114830

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 18, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 5, 2005, after it was believed that a proper response was not filed to the "Notice under 37 CFR 1.251—Pending Application" that was mailed May 4, 2005. The Notice required a "response to Notice to File Missing Parts and Oath or declaration filed on July 28, 2003." Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a).

The instant petition maintains that a response was timely filed on May 16, 2005. An Office date-stamped postcard whereby the Office acknowledged receipt of the response on May 16, 2005, accompanies the petition. The evidence is convincing that a response was timely received and misplaced by the Office. Because a response was filed with the Office prior to the expiration of the period for reply, the petition is granted and the holding of abandonment withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2161 for further processing.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.
ATTORNEYS AT LAW

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Docket No.: 235032US0DIV

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/397,199
Applicants: Uwe ERNST, et al.
Filing Date: March 27, 2003
For: PROCESS FOR ADSORPTION OF ORGANIC COMPOUNDS, AND ABSORBENTS OF PULVERULENT RUBBER
Group Art Unit: 1754
Examiner: HENDRICKSON, S.

Approved 6/16/05
Jacqueline M. Stone, Director
Technology Center 1700

SIR:

Attached hereto for filing are the following papers:

PETITION FOR ATTORNEY WITHDRAWAL UNDER 37 CFR 1.36

Our check in the amount of 00.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Stefan U. Koschmieder, Ph.D.
Registration No. 50,238

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)

PAGE 2/3 * RCVD AT 3/16/2005 4:03:53 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):01-32

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 12, 2006

TO SPE OF : ART UNIT 2852 (S.P.E. ~~Arthur Grimley~~ David Gray)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/397209 Patent No.: 6,968,139

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please see Inventor's address, continuing data, etc.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** RD 5/25/06 — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: NONE

SPE

2852

Art Unit

OIPE IAP13
MAR 30 2006
PATENT & TRADEMARK OFFICE

00684.002673.5

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	
	:	Examiner: Robert Beatty
Yutaka BAN, et al.	)	
	:	Group Art Unit: 2852
Application No.: 10/397,209	)	
	:	U.S. Patent No. 6,968,139 B2
Filed: March 27, 2003	)	
	:	Issued: November 22, 2005
For: A TONER SUPPLY CONTAINER AND ELECTROPHOTOGRAPHIC IMAGE FORMING APPARATUS	)	March 30, 2006

Certificate
APR 04 2006
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: CERTIFICATE OF CORRECTIONS BRANCH

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323 AND REQUEST FOR
REPRINTED COVER PAGE OF LETTERS PATENT

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form, in duplicate, is enclosed.

03/31/2006 JADDU1 00000054 6968139
100.00 OP

APR 05 2006

Cover-Page Corrections

Patentees propose correcting a Patent Office printing error in the filing date of the great grandparent application 09/099,032 by changing "application No. 09/099,032, filed on Jul. 18, 1998" to --application No. 09/099,032, filed on June 18, 1998--, at item (60), Related U.S. Application Data, since application No. 09/099,032 was filed on June 18, 1998, as confirmed in the May 19, 2003 Official Filing Receipt in this case. Therefore, correction is appropriate and is respectfully solicited.

In addition, Patentees propose correcting a Patent Office printing error in the number identifying one of the foreign patents listed on the second page of the cover page by changing JP "8-11719" to read --8-211719--, under the heading FOREIGN PATENT DOCUMENTS, in accordance with the attached initialed copy of Form PTO-1449 accompanying the Information Disclosure Statement filed March 27, 2003. Therefore, correction is appropriate and is respectfully solicited.

Patentees further propose correcting a Patent Office printing error on the cover page at item (57) on line 9 of the Abstract by changing "membered" to --member provided--, in accordance with page 48 of the clean version of the substitute specification filed on March 8, 2004. Therefore, correction is appropriate and is respectfully solicited.

In addition, Patentees also propose correcting a Patent Office printing error on the cover page at item (75) by changing "Kyota Miyazaki, Kanagawa-ken" to --Kyota Miyazaki, Kawasaki-shi--, in accordance with the city of residence of this inventor listed on the copy of the executed declaration filed with the application on March 27, 2003. Therefore, correction is appropriate and is respectfully solicited.

Request for Reprinting of Cover Page of Patent

Since the filing date of the great grandparent application is incorrect on the cover page of the patent as a result of a Patent Office printing error, Patentees respectfully request that the Patent Office reprint the cover page to correct this error and the other errors discussed above.

Claim Corrections

Claim 5

Patentees propose correcting a minor, typographical error in Claim 5 at column 33, line 39 by changing "coupling projections" to --projections--, in accordance with the Claim 4, from which Claim 5 depends, which provides an antecedent basis for the term "projections", but not for "coupling projections". Therefore, correction is appropriate and is respectfully solicited.

Claim 12

Patentees propose correcting a minor typographical error in Claim 12 at column 33, line 66, by changing "claim 1" to --claim 1,--, which improves the claim grammatically without changing its scope. Therefore, this correction is proper and its entry is respectfully solicited.

Claim 14

Patentees propose correcting a Patent Office printing error in patent Claim 14, at column 34, line 20, by changing "engagable" to --engageable--, in accordance with the text of corresponding application Claim 41 at page 6 of the September 7, 2004 and October 28, 2004 Amendments. Therefore, this correction is proper and its entry is respectfully solicited.

Claim 23

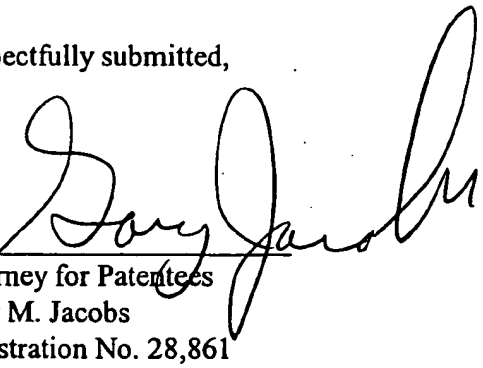
Patentees propose correcting a Patent Office printing error in patent Claim 23, at column 35, line 8, by changing "connected" to --connecting--, in accordance with the text of corresponding application Claim 50 at page 8 of the March 7, 2005 Preliminary Amendment. Therefore, this correction is proper and its entry is respectfully solicited.

Required Fee

Accompanying this letter is a check for $100.00 to cover the statutory fee for such Certificate of Correction. Please charge any required additional fee or credit any overpayment to Deposit Account No. 06-1205.

Patentees' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



Attorney for Patentees
Gary M. Jacobs
Registration No. 28,861

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
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GMJ:ayr

DC_MAIN 232965v1

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,968,139 B2

DATED : November 22, 2005

INVENTOR(S) : Yutaka BAN, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 3:
Line 6, "further-comprises" should read --further comprises--.

COLUMN 7:
Line 20, "s" should be deleted.

COLUMN 8:
Line 66, "with" should read --will--.

COLUMN 9:
Line 8, "1a" should be deleted.

COLUMN 10:
Line 17, "described" should read --described.--.

COLUMN 12:
Line 37, "54bof" should read --54b of--.

COLUMN 13:
Line 15, "body A" should read --body 1A--.
Line 62, "1cby" should read --1c by--.

COLUMN 15:
Line 1, "3a" should read --3a.--.
Line 42, "minutes." should read --minute.--.
Line 61, "FIG, 1,(B)," should read --FIG. 11, (B),--.

COLUMN 17:
Line 55, "material-using" should read --material using--.

MAILING ADDRESS OF SENDER:
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New York, New York 10112-3800
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PATENT NO. 6,968,139 B2

No. of addl. copies @ 30¢ per page

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,968,139 B2

DATED : November 22, 2005

INVENTOR(S) : Yutaka BAN, 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

At (60), Related U.S. Application Data:

"Continuation-in-part of application No. 10/359,262, filed on Feb. 6, 2003, which is a division of application No. 09/905,104, filed on Jul. 16, 2001, now Pat. No. 6,594,458, which is a division of application No. 09/099,032, filed on Jul. 18, 1998, now Pat. No. 6,266,505."

should read

--Continuation-in-part of application No. 10/359,262, filed on Feb. 6, 2003, which is a division of application No. 09/905,104, filed on Jul. 16, 2001, now Pat. No. 6,594,458, which is a division of application No. 09/099,032, filed on June 18, 1998, now Pat. No. 6,266,505.--.

At (56) References Cited, FOREIGN PATENT DOCUMENTS

"8-11719 8/1996" should read --8-211719 8/1996--.

At (57) ABSTRACT

Line 9, "membered" should read --member-provided--.

At (75) Inventors:

"Kyota Miyazaki, Kanagawa-ken (JP);" should read --Kyota Miyazaki, Kawasaki-shi (JP));--.

COLUMN 1:

Line 10, "No. 6.594,458" should read --No. 6,594,458--.

Line 11, "15. 2003," should read --15, 2003,--

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PATENT NO. 6,968,139 B2

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Form PTO 1050 (Rev. 3-82)
GMJ:ayr 232964 v 1

APR 05 2006

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,968,139 B2

DATED : November 22, 2005

INVENTOR(S) : Yutaka BAN, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 21:
Line 39, "1A1" should read --1A1--.
Line 53, "demounting" should read --dismounting--.

COLUMN 24:
Line 12, "0.5mm-3mm." should read --0.5mm-3mm--.

COLUMN 28:
Line 22, "tone" should read --toner--.

COLUMN 29:
Line 46, "locking" should read --locking,--.

COLUMN 30:
Line 24, "therefore,." should read --therefore,--.

COLUMN 31:
Line 50, "(e.g. In," should read --(e.g., 1n,--.
Line 52, "(e.g. 1a." should read --(e.g., 1a,--.
Line 55, "(e.g. 2,302)" should read --(e.g., 2,302)--.
Line 63, "(e.g." should read --(e.g.,--.

COLUMN 32:
Line 6, "(e.g." should read --(e.g.,--.
Line 12, "(e.g." should read --(e.g.,--.
Line 13, "(e.g." should read --(e.g.,--.
Line 24, "(e.g." should read --(e.g.,--.
Line 27, "(e.g." should read --(e.g.,--.

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PATENT NO. 6,968,139 B2

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APR 05 2006

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,968,139 B2

DATED : November 22, 2005

INVENTOR(S) : Yutaka BAN, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 33:
Line 39, "coupling" (first occurrence) should be deleted.
Line 66, "claim 1" should read --claim 1,--.

COLUMN 34:
Line 20, "engagable" should read --engageable--.

COLUMN 35:
Line 8, "connected" should read --connecting--.

MAILING ADDRESS OF SENDER:
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PATENT NO. 6,968,139 B2

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Form PTO 1050 (Rev. 3-82)
GMJ:ayr 232964 v 1

APR 05 2006

FORM PTO 1449 (*modified*)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

Date: March 27, 2003

ATTY DOCKET NO.	APPLICATION NO.
00684.002673.5	CIP of 10/359,262
APPLICANT	
YUTAKA BAN, ET AL.	
FILING DATE	**GROUP**
March 27, 2003	~~UNASSIGNED~~ 2800

PTO IAP13 MAR 30 2006 PATENT & TRADEMARK OFFICE

PTO JC34 MAR 08 2004 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS

*EXAMINER		DOCUMENT					FILING DATE
		5,619,312	4/8/97	HATANO, ET AL.	399	61	
		5,331,381	7/19/94	OTA, ET AL.	399	258	
		4,943,830	7/24/90	SULENSKI	399	263	
		3,883,240	5/13/75	ITO, ET AL.	399	116	
		4,422,750	12/27/83	KAWATA	118	612	
		4,937,625	6/26/90	KATO, ET AL.	399	258	
		4,212,264	7/15/80	KNECHTEL, ET AL.	118	653	
		4,611,730	9/16/86	IKESUE, ET AL.	222	167	
		4,878,603	11/7/89	IKESUE, ET AL.	222	167	
		5,500,719	3/19/96	ICHIKAWA, ET AL.	555	260	
		5,307,129	4/26/94	MIURA, ET AL.	335	260	
		5,579,101	11/26/96	OMATA, ET AL.	—	—	
		5,784,669	7/21/98	MIURA, ET AL.	—	—	

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
		61-116372	3/6/86	JAPAN	—	—	
		0 708 387	4/24/96	EPO	—	—	
		0 736 818	10/9/96	EPO	—	—	

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER	R Beatty
DATE CONSIDERED	5/28/04

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO 1449 (*modified*)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

Date: March 27, 2003

ATTY DOCKET NO. 00684.002673.5

APPLICATION NO. CIP of 10/359,262

APPLICANT YUTAKA BAN, ET AL

FILING DATE March 27, 2003

GROUP 2800 ~~UNASSIGNED~~

OIPE IAP13 MAR 30 2006 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS

*EXAMINER		DOCUMENT					FILING DATE
		5,629,759	5/13/97	JYOROKU	399	262	
		6,266,505	7/24/01	BAN, ET AL.	399	258	
		6,128,453	10/3/00	BAN, ET AL.	399	106	
		5,128,724	7/7/92	HAYASHI, ET AL.	399	119	
		5,057,872	10/15/91	SAIJO, ET AL.	355	260	
		5,296,900	3/22/94	SAIJO, ET AL.	355	260	
		5,548,384	8/20/96	WEED	355	260	
		5,398,849	3/21/95	SMITH, ET AL.	222	235	

OIPE JC34 MAR 08 2004 PATENT & TRADEMARK OFFICE

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
RB		07-004400	1/95	JAPAN	—	—	
		07-113796	12/6/95	JAPAN	—	—	ABST.
		8-211719	8/20/96	JAPAN	—	—	
		63-85660	4/16/98	JAPAN	—	—	
		8-278694	10/22/96	JAPAN	—	—	ABST.
		6-186844	7/8/94	JAPAN	—	—	ABST.
		11-015272	1/22/99	JAPAN	—	—	
		60-233677	11/20/85	JAPAN	—	—	

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER R Beatty

DATE CONSIDERED 5/28/04

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FORM PTO 1449 (*modified*)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

Date: March 27, 2003

PE IAP13 MAR 30 2006 PATENT & TRADEMARK OFFICE

ATTY DOCKET NO.	APPLICATION NO.
00684.002673.5	CIP of 10/359,262

APPLICANT: YUTAKA BAN, ET AL.

FILING DATE	GROUP
March 27, 2003	2800 UNASSIGNED

PE MAR 08 2004 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS

*EXAMINER		DOCUMENT					FILING DATE
		4,622,916	11/18/86	TANAKA, ET AL.	118	688	
		5,424,816	6/13/95	FOX, ET AL.	355	260	
		5,264,901	11/23/93	ROSSITER	355	260	
		5,331,382	7/19/94	MIURA, ET AL.	355	260	
		5,862,441	1/19/99	OHATA	399	119	
		4,641,945	2/10/87	IKESUE, ET AL.	399	262	
		4,744,493	5/17/88	IKESUE, ET AL.	222	167	
		5,557,382	9/17/96	TATSUMI, ET AL.	399	262	

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
		10-319696	12/4/98	JAPAN			
		3-2882	1/9/91	JAPAN			
		64-23054	2/7/89	JAPAN			
		6-348121	12/22/94	JAPAN			
		0 740 227 A1	10/30/96	EPO			
		7-044000	2/14/95	JAPAN			
		0 670 530 A2	9/6/95	EPO			

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

		R Beata	5/28/04

EXAMINER | DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM PTO 1449 (*modified*)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT(S)
(Use several sheets if necessary)

Date: March 27, 2003

ATTY DOCKET NO.	APPLICATION NO.
00684.002673.5	CIP of 10/359,262
APPLICANT: YUTAKA BAN, ET AL.	
FILING DATE: March 27, 2003	GROUP: ~~UNASSIGNED~~ 2800

U.S. PATENT DOCUMENTS

*EXAMINER		DOCUMENT					FILING DATE
		5,614,996	3/25/97	TANDA	399	120	
		5,627,631	5/6/97	ICHIKAWA, ET AL.	222	DIG.1	
		5,669,044	9/16/97	CUTHBERT	399	120	
		5,794,108	8/11/98	YOSHIZAWA, ET AL.	399	262	
		5,822,663	10/13/98	ICHIKAWA, ET AL.	399	262	
		5,828,935	10/27/98	TATSUMI, ET AL.	399	260	
		5,842,093	11/24/98	TANDA	399	263	
		5,848,342	12/8/98	TANDA	399	120X	
		5,202,732	4/13/93	YAHATA	355	251	
		5,298,952	3/29/94	KAMIJO, ET AL.	355	270	
		6,259,874	7/10/01	MURAKAMI, ET AL.	—	—	
		6,266,505	7/24/01	BAN, ET AL.	—	—	
		6,049,685	4/11/00	MURAKAMI, ET AL.	—	—	
		5,974,286	10/26/99	BAN, ET AL.	—	—	
		6,014,536	1/11/00	BAN, ET AL.	—	—	

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES/NO/ OR ABSTRACT
MB		59-101674	6/12/84	JAPAN	—	—	ABST.

OTHER DOCUMENT(S) (Including Author, Title, Date, Pertinent Pages, Etc.)

EXAMINER: R. Beutty — DATE CONSIDERED: 5/28/04

RECEIVED MAR 08 2004 TECH CENTER 2800 PATENT & TRADEMARK OFFICE

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 10/397,214 : ON PETITION
Filed: March 27, 2003 :
Attorney Docket No. :
08702.0039-03000 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 24, 2004, 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 above-noted, 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 above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3232. 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 1647 for appropriate action on the amendment filed November 24, 2004, 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
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

Paper No: 17042006

MARK HAYMAN
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SUITE 800
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In re Application of: Weber *et al.*
Application No.: 10397239
Filed: 27 Mar 2003

Attorney Docket No.: A-8464
For: Inhibitors Of The S100-P53 Protein-Protein Interaction And Mehtod Of Inhibiting Cancer Employing The Same

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is in response to applicant's petition filed 20 Jun 2003 under 37 C.F.R. 1.84 to use color drawings in the application is noted. Applicant has (A) paid the appropriate petition fee; (B) the required three (3) copies of formal color drawings are not present; (C) the black and white photocopy of the drawings in the image file wrapper will suffice for 37 C.F.R. 1.84(a)(2)(iii); and (D) there is no apparent amendment to the specification regarding incorporate color drawings under 37 C.F.R. 1.84(a)(2)(iv) and figures 14 through 14D overlap each other.

Applicant's petition is DENIED.

Questions with regard to this letter should be directed to the undersigned as indicated below.

Christopher S. F. Low
Supervisory Patent Examiner
Art Unit 1614 (571) 272-0951
Christopher.low@uspto.gov

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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GARRETT & DUNNER, L.L.P.
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Washington DC 20005-3315

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Sabelle et al.
Application No. 10/397,245
Filed: March 27, 2003
For: PYRROLIDINYL-SUBSTITUTED PARA-PHENYLENEDIAMINE DERIVATIVES SUBSTITUTED WITH A CATIONIC RADICAL, AND USE OF THESE DERIVATIVES FOR DYEING KERATIN FIBRES
Attorney Docket No: 05725.05725-00000
Pub. No.: US 2003/0229949 A1
Pub. Date: December 18, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on February 18, 2004 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request also includes mistakes that are not

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the fault of the Office, which will not be corrected by a corrected publication by the Office.

The errors labeled (A)-(D) will be corrected as requested.

The error labeled (E) below will not be corrected as requested by applicant.

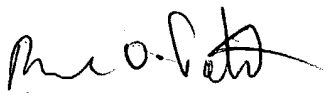
With respect to the error labeled (E), the phrase "(*) Dyeing medium (1) pH 9.5" not appearing before the ingredient "ethanol at 96°" in the publication, the phrase does not appear on page 55 of the application as filed.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure (copy of page 55 as filed)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THOMAS L. IRVING
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

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FEB 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Stephane Sabelle et al :
Application No. 10/397,245 :
Filed: March 27, 2003 :
Attorney Docket No. 05725.1186-00 :

This is a decision on the petition, filed February 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1751 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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GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of :
Masakazu Kakimoto et al :
Application No. 10/397,270 : DECISION ON PETITION
Filed: March 27, 2003 : UNDER 37 CFR 3.81(b)
Attorney Docket No. P23317 :

This is a decision on the petition 37 CFR 3.81(b), filed February 16, 2005, for issuance of patent to assignee on a late assignment.

The request is **dismissed**.

Applicants request that the patent issue to **UHT Corporation of Aichi, JAPAN.**

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The instant request was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). Accordingly, the request cannot be granted.

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 UHT Corporation of Aichi, JAPAN, was the assignee of record at the time of issuance of the instant

application into a patent.[1] *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of the instant application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth UHT Corporation of Aichi, JAPAN as the assignee**. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision ***must*** accompany the request for a Certificate of Correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3220. After the submission of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The assignment submitted for recordation on February 16, 2005.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/09

TO SPE OF : ART UNIT 1617 Padmanabhan, Sreenivasan (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/397332 Patent No.: 7153844

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: Entrance of changes shown on CofC is approved.

/Sreeni Padmanabhan/
SPE

SPE 1628 **Art Unit**

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OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA, VA 22320

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Yasunori Ogawa :
Application No. 10/397,337 : ON PETITION
Filed: March 27, 2003 :
Attorney Docket No. 114273 :

This is a decision on the petition, filed March 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 under 37 CFR 1.313(c)(2) is **DISMISSED** as moot.

Unfortunately, the instant petition was not received within sufficient time to avert issuance of the above-identified application into a patent. In this regard, the petition reached the deciding official's office on the same day as the issuance of the instant application into a patent.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since a petition to withdraw the instant application from issue was not granted prior to issuance of the instant application into a patent, the request for continued examination (RCE) filed concurrently with the instant petition is improper and will not be processed, the $790 fee submitted therefor will be credited to petitioner's Deposit Account No. 15-0461.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/25/07

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/397337 Patent No: 6869186 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: Bib & Oath contain Suwa as correct residence

[signature] 2851
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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APR 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,242,426 :
Issue Date: July 10, 2007 :
Application No. 10/397,354 : ON PETITION
Filed: March 27, 2003 :
Attorney Docket No. 0649-0871P :

This is a decision on the petition filed November 6, 2007, 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 application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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VOLENTINE FRANCOS, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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SEP 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Yusuke Harada :
Application No. 10/397,369 : ON PETITION
Filed: March 27, 2003 :
Attorney Docket No. OKI.112C2 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed July 7, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the final Office Action mailed September 30, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on December 31, 2005. This decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the final Office Action mailed on September 30, 2005 was never received. A review of the record indicates the final Office Action was mailed to an incorrect correspondence address. Petitioner submitted a change of correspondence address signed by attorney Adam Volentine. The EBC rejected the request to change the correspondence address because attorney Volentine was not listed as an attorney of record in Office database. However, a review of the declaration submitted on March 27, 2003 does authorize power of attorney to Adam Volentine. Further review shows that a revocation of power of attorney has not been filed in the application. Accordingly the change of address should have been entered.

This application is being forwarded to Art Unit 2814 for re-mailing of the final Office Action to the current correspondence address of record. The final Office Action extendable period for reply will start upon the re-mailing 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

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

G. Prabhakar Reddy
Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

Date: January 17, 2006
Application No. 10/397,392
Filing Date: March 26, 2003
Subject: Compositions including a visual marker and method of use thereof

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed December 04, 2003, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that the inventor, Roger D. Griggs should be deleted. Accordingly, this application has been changed by deleting Roger D. Griggs. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Dameron Jones
United States Patent and Trademark Office
Primary Examiner
Art Unit 1618
Remsen 4A51
571-272-0617

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of
Anand Harirah Udupa et al.
Application No. 10/397,421
Filed: March 27, 2003
Attorney Docket No: TI-35153

ON PETITION

This is a decision on the petition filed May 16, 2005, to revive the above identified application under 37 CFR 1.137(b). [1]

The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned on March 31, 2005, for failure to pay the issue fee by March 30, 2005, in response to the Notice of Allowance mailed December 30, 2004. Accordingly, a Notice of Abandonment was mailed on May 2, 2005.

Petitioner asserts that a response to the Notice of Allowance was filed by facsimile transmission and has submitted a copy of the reply said to have been sent but not received in the U.S. Patent and Trademark Office. The document contains a certificate of transmission pursuant to 37 CFR 1.8, dated March 8, 2005.

---

[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)).

Accordingly, the holding of abandonment is withdrawn. In view thereof, the petition under 37 CFR 1.137(b) is moot. A fee for the petition is unnecessary but the issue fee and publication fee have been charged to petitioner's deposit account.

This matter is being referred to the publishing division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 3

PETE SCOTT
INTELLECTUAL PROPERTY LAW DEPARTMENT
LSI LOGIC CORPORATION, M/S D-106
1551 McCARTHY BLVD.
MILPITAS CA 95035

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JUN 0 4 2003

OFFICE OF PETITIONS

In re Application of
Jung
Application No. 10/397,483
Filed: March 25, 2003
Attorney Docket No. 02-6348
For: CLOCK GENERATOR FOR PSEUDO DUAL PORT MEMORY

: DECISION GRANTING
: PETITION

This is a decision on the petition filed April 28, 2003 (certificate of mailing date April 22, 2003) entitled, "PETITION TO CORRECT APPLICATION FILING DATE FOR "DATE-IN" INCORRECTLY ENTERED OR OMITTED ON EXPRESS MAIL LABEL (37 C.F.R. 1.10(d)," requesting that the above-identified application be accorded a filing date of March 25, 2003 rather than the presently accorded filing date of March 24, 2003. The petition will be treated under 37 CFR 1.10(c).

Petitioner requests the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on March 25, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV149101679US showing a "date-in" of 03/24/03 **and** a USPS date stamp for March 25, 2003. The same Express Mail label number is found on the ORIGINAL PATENT APPLICATION TRANSMITTAL LETTER found in the application file and resubmitted with the instant petition.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV149101679US was deposited with the USPS on March 25, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to March 25, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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AUG 29 2007

OFFICE OF PETITIONS

In re Patent No. 7,115,379	:	
Hardiman et al.	:	DECISION ON REQUEST
Issue Date: 10/03/2006	:	FOR RECONSIDERATION OF
Application No. 10/397,559	:	PATENT TERM ADJUSTMENT
Filed: 25 March, 2003	:	and
Atty Docket No. DX0569K2BIB	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705" filed on 21 November, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 239 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-nine (239) days.

On 3 October, 2006, the above-identified application matured into U.S. Patent No. 7,115,379. The instant request for reconsideration filed on 21 November, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 177 days. Patentees dispute a reduction for 62 days associated with

the filing of a "miscellaneous incoming letter" on 25 July, 2005, for a failure by the Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR § 1.704, is incorrect. Specifically, patentees state that an amendment under 1.312 was filed on 25 July, 2005, and that patentees were properly assessed nine (9) days of delay for the time between the filing of the amendment under 1.312 and the date that the Office issued a response to that paper on 2 August, 2006. Patentees argue that no other papers were filed on that date, however, and that the reduction of 62 days is therefore not warranted.

Patentees' contention is well taken. A review of the Official file reveals that no papers other than the Amendment under 37 CFR 1.312, and an Application Data Sheet (ADS) in support of the amendment, were filed on 25 July, 2005. Accordingly, the reduction of 65 days for a "miscellaneous incoming letter" filed on 25 July, 2005, was made in error.

In view thereof, the patent term adjustment indicated on the patent should be two hundred thirty-nine (239) 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 TWO HUNDRED THIRTY-NINE (239) 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

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,115,379 B1

DATED : October 3, 2006

DRAFT

INVENTOR(S) : Gerard T. Hardiman 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 (177) days

Delete the phrase "by 177 days" and insert – by 239 days—

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
MUZAFFAR et al :
Application No.: 10/397,573 : DECISION ON PETITION
Filing Date: March 25, 2003 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 6260P005 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 5, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 6, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

ROBERT S. BLASI
TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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SEP 2 3 2003

OFFICE OF PETITIONS

In re Application of
Paul A. Ward et al
Application No. 10/397,577
Filed: May 26, 2003
Attorney Docket No. DPL-033

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 the Initial Patent Examination Unit.

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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MCDONNELL BOEHNEN HULBERT & BERGHOFF
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CHICAGO IL 60606

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MAR 12 2007

OFFICE OF PETITIONS

In re Patent No. 7,135,055 :
Issued: 14 November, 2006 :
Application No. 10/397,579 : ON PETITION
Filed: 26 March, 2003 :
Atty Dckt No. 01-661-E :

This is a decision on the petition filed on 1 December, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE, HONG, DEGERMAN, KANG
& SCHMADEKA
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

One-Pil Lee :

Application No. 10/397,616

: DECISION ON PETITION

Filed: March 26, 2003

:

Attorney Docket No. **2060-3-49**

This is a decision on the petition under 37 CFR 1.137(b), filed, December 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 12, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed October 5, 2006.

The amendment filed December 5, 2006, is noted.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Lew Edward V. Macapagal
801 S. Figueroa Street, 12th Floor
Los Angeles, CA 90017

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IPVENTURE, INC.
5150 EL CAMINO REAL
SUITE A-22
LOS ALTOS, CA 94022

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Chung Lau, et al. :
Application No. 10/397,640 : DECISION GRANTING PETITION
Filed: March 26, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IPVAP005 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No. 10

PERKINS SMITH & COHEN
ONE BEACON STREET
30TH FLOOR
BOSTON, MA 02108

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of :
John Berkheimer et al :
Application No. 10/397,647 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. 06100-P64 CON :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 2615.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PO BOX 37428
RALEIGH NC 27627

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of	:	
RESCH et al.	:	DECISION GRANTING
Application No. 10/397,653	:	PETITION
Filed: March 26, 2003	:	
Attorney Docket No. 5051-598	:	

This is a decision on the petition under 37 CFR 1.10(c), filed November 21, 2003, requesting that the above-identified application be accorded a filing date of March 26, 2003, rather than the presently accorded filing date of June 30, 2003.

Petitioner alleges that the application was deposited in Express Mail service on March 26, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV193629350US. The "date-in" indicated on the Express Mail label is March 26, 2003. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of March 26, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

The Office of Initial Patent Examination is directed to correct the filing date to March 26, 2003, and to mail a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Grove et al.	:	
Application No. 10/397,679	:	ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. AKAM-154	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and a Preliminary Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2112 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of :
Ramaswamy Sundararajan, et al. :
Application No. 10/397,681 : DECISION ON PETITION
Filed: March 25, 2003 : TO WITHDRAW
Attorney Docket No. 005306.P101 : 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 4, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/397,681	03/25/2003	Ramaswamy Sundararajan	005306.P101

CONFIRMATION NO. 6842

OC000000021236973

OC000000021236973

Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- 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).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/26/2010

Applicant	: Ramaswamy Sundararajan	: DECISION ON REQUEST FOR
Patent Number	: 7606699	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/397,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **727** 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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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Jae Paul PAK et al. :
Application No. 10/397,685 :
Filed: March 26, 2003 :
Attorney Docket No. RAS-10 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 4, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 5, 2005.

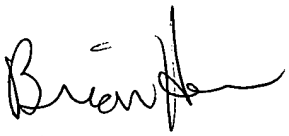
The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 4, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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.

Application No. 09/586,557

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3738 for appropriate action on the concurrently filed amendment.



Brian Hearn
Petitions Examiner
Office of Petitions

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Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

DEC 15 2004

In re Application of: Chen et al	:	
Application No.: 10/397,699	:	NOTICE OF WITHDRAWAL
Filed: March 26, 2004	:	FROM ISSUE
Attorney Docket No.: 85886D-W	:	UNDER 37 CFR ə 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 ə 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 July 14, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Stephen Meier at (703)-272-2149.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard Goldberg, Director
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Ju-Byung Lee	: DECISION ON REQUEST FOR
Patent Number	: 7598945	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/397,751	: 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 **287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 6, 2006

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/397755 Patent No.:7,0005,788 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

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_____

_____ 2879

SPE **Art Unit**

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NEWMARKET SERVICES CORPORATION
C/O JOHN H. THOMAS
536 GRANITE AVENUE
RICHMOND VA 23226

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Allen A. Aradi et al :
Application No. 10/397,772 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. NM 7554-C1 :

This is a decision on the petition, filed March 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 13, 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 1714 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 22 2005

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FEB 22 2005

OFFICE OF THE DIRECTOR
TC 3600

Eric K. Satermo
Registered Patent Agent
P.O. Box 19099
Irvine, CA 92623-9099

In re application of : **DECISION ON PETITION**
Paul R. Barous : **TO MAKE SPECIAL**
Application No. 10/397,778 : **(INFRINGEMENT)**
Filed: March 25, 2003 :
For: SYSTEMS AND METHODS FOR DISTRIBUTING COUPONS

This is a decision on the petition under 37 C.F.R. § 1.102(d) filed January 24, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed January 24, 2005, meets all of the requirements above and is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 2/1/05

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DIW May-06

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of :
Mark Trokan :
Application No. 10/397,793 : DECISION ON PETITION
Filed: 23 March, 2003 :
Atty Docket No. 0114-1 :
:

This is a decision on the petition filed on 15 July, 2005, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 February, 2005, for failure to timely and properly reply to the final Office action mailed 17 November, 2004, which set a three (3) month shortened statutory period for reply. On 18 February, 2005 (certificate of mailing date 16 February, 2005), an amendment after final rejection were filed. However, the amendment did not place the application in *prima facie* condition for allowance. An Advisory

---

[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)).

Action was mailed on 28 March, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and stated that the amendment filed 18 February, 2005, is the submission required by 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to the Technology Center for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CRYO-SAFE PRODUCTS, INC.
13348 LEBLANC ROAD
GONZALES LA 70737

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OFFICE OF PETITIONS

In re Application of :
Ernie Gautreau :
Application No. 10/397,796 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 03-01CRYO :

This is a decision on the petition under 37 CFR 1.137(a), filed August 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before April 22, 2004 as required by the Notice of Allowability mailed January 22, 2004. Accordingly, this application became abandoned on April 23, 2004. A Notice of Abandonment was mailed on July 30, 2004.

Petitioner has provided the necessary showing under 37 CFR 1.137(a). Accordingly, the petition is granted.

This application is being forwarded to Publishing Division for review of the drawings filed August 27, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CRYO-SAFE PRODUCTS, INC.
13348 LEBLANC ROAD
GONZALES LA 70737

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FEB 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Ernie Gautreau :
Application No. 10/397,796 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 03-01CRYO :

This is a decision on the petition under 37 CFR 1.137(a), filed August 27, 2004, to revive the above-identified application. The decision on petition mailed November 18, 2004, is hereby vacated and replaced by the instant decision.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The petition is **dismissed**.

This application became abandoned for failure to timely file corrected drawings on or before April 22, 2004 as required by the Notice of Allowability mailed January 22, 2004. Accordingly, this application became abandoned on April 23, 2004. A Notice of Abandonment was mailed on July 30, 2004.

The petition and statement of unavoidable delay appear to be signed by the assignee of the application. As such, petitioner must file a "Statement under 37 CFR 3.73(b)." A copy of form PTO/SB/96, Statement Under 37 CFR 3.73(b), is attached for petitioner's convenience.

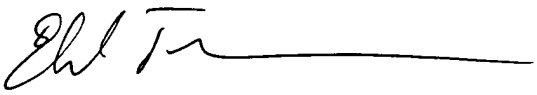
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

Attachment:
Form PTO/SB/96

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CRYO-SAFE PRODUCTS, INC.
13348 LEBLANC ROAD
GONZALES LA 70737

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OFFICE OF PETITIONS

In re Application of :
Ernie Gautreau :
Application No. 10/397,796 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 03-01CRYO :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before April 22, 2004 as required by the Notice of Allowability mailed January 22, 2004. Accordingly, this application became abandoned on April 23, 2004. A Notice of Abandonment was mailed on July 30, 2004.

Petitioner has provided the necessary showing under 37 CFR 1.137(a). Accordingly, the petition is granted.

This application is being forwarded to Publishing Division for review of the drawings filed August 27, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TIENG-FU LIN & EONGEN YAN
PO BOX 487
CHANG-HUA CITY 500
TAIWAN

COPY MAILED

JUN 0 8 2006

OFFICE OF PETITIONS

In re Patent No. 6,756,745 :
Issue Date: June 29, 2004 : DECISION ON PETITION
Application No. 10/397,804 :
Filed: March 27, 2003 :

This is a decision on the "Petition for Duplicate Patent", filed September 23, 2005, which is being treated as a petition under 37 CFR 1.182.

The petition is **DISMISSED**.

Petitioner has stated that the original patent was not received. Specifically, petitioner has stated that he checked the case file, as well as searched a mail log book.

To establish nonreceipt, a petitioner must: (1) include a statement that the patent was not received; (2) attest to the fact that a search of the file jacket and docket records indicates that the patent was not received; and (3) **include a copy of the docket record** where the nonreceived Office action would have been entered had it been received and docketed.[1] Accordingly, on renewed petition alleging nonreceipt of the patent, petitioner should include a copy of his mail log book, covering the applicable period of time.

---

[1] See MPEP 711.03(c)(II).

There is no fee for a petition for a duplicate patent where the petitioner alleges nonreceipt. Accordingly, the $130 fee submitted by petitioner is refundable. Petitioner may request a refund by writing to the Office of Finance, Refund Branch, at: Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450. Petitioner should enclose a copy of this decision with the request.

Alternatively, if petitioner does not desire to establish nonreceipt, petitioner may pay the $400 petition fee for a petition under 37 CFR 1.182.[2] The $130 submitted with the instant petition will be credited towards the $400 fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] The fee for a petition under 37 CFR 1.182 was increased from $130 to $400 effective December 8, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TIENG-FU LIN & EONGEN YAN
PO BOX 487
CHANG-HUA CITY 500
TAIWAN

COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Patent No. 6,756,745 :
Issue Date: June 29, 2004 : DECISION ON PETITION
Application No. 10/397,804 :
Filed: March 27, 2003 :

This is a decision on the renewed petition for duplicate letters patent under 37 CFR 1.182, filed July 5, 2006.

The petition under 37 CFR 1.182 is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703)308-9250, extension 139.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD (FAX 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

COPY MAILED

NOV 10 2003

OFFICE OF PETITIONS

In re Application of
Reza Barazesh
Application No. 10/397,823
Filed: March 26, 2003
Attorney Docket No. 384.7760USU
For: GLOBAL FAILURE RISK SCORE

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed October 2, 2003 (certificate of mailing date September 30, 2003).

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 26, 2003 without an executed oath or declaration. Accordingly, on May 30, 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 October 2, 2003 (certificate of mailing date September 30, 2003), a petition for a two month extension of time and required fee, a declaration signed by David J. Lewinter on behalf of Dun & Bradstreet, a party with purported proprietary interest in the invention, an assignment signed by David J. Lewinter, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts by Joanne A. Romaniello, accompanies the petition.

The petition sets forth the non-signing inventor's last known address. Ms. Romaniello states that Mr. Barazesh received numerous copies of the Combined Declaration and Power of Attorney and Assignment documents for the above-identified application via mail and e-mail, but the inventor has not responded to the requests that he sign the documents.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1), (2), and (5) set forth above.

As to item (1), applicant has failed to establish that the inventor has refused to sign the declaration.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition and statement of facts does not establish that a complete copy of the application was mailed the inventor's last known address.

The inventor must have the complete application in his possession in order to make an informed decision as to whether he join in its filing. Mr. Barazesh cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

When petitioner can show that the inventor was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47(b) applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 still has not been presented. See MPEP 409.03(b).

Where a corporation is the Rule 47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) may sign the declaration on behalf of the corporation. Another individual may sign for the corporation, but an officer of the corporation must authorize the individual to sign on its behalf. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation.

The Office requires petitioner to submit a new declaration with the signer's name and title listed thereon in addition to the information pertaining to the inventor. As stated above, the signer must be authorized to sign for the corporation. An oath or declaration in compliance with 37 CFR 1.63 signed by the Rule 1.47 applicant on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show or provide proof that Dun & Bradstreet has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventor (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

The assignment document signed by David J. Lewinter is not sufficient evidence of Dun & Bradstreet having proprietary interest in the invention. What is the basis for Dun & Bradstreet to claim proprietary interest?

The petition and Ms. Romaniello mention that documents executed by Reza Barazesh called, "Agreement Regarding Trade Secrets and Non-solicitation, Policy on Business Conduct - Certification, Detrimental Conduct Agreement Acceptance Form and Detrimental Conduct Agreement" were forwarded to Attorney Greeley on August 1, 2003. The Office would like a copy of these documents. From their titles, it seems like these documents could prove Dun & Bradstreet has proprietary interest in the invention.

Pursuant to petitioner's authorization, deposit account no. 01-0467 will be charged the $130 surcharge for filing a late declaration.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Reza Barazesh
Application No. 10/397,823
Filed: March 26, 2003
Attorney Docket No. 384.7760USU
For: GLOBAL FAILURE RISK SCORE

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed February 13, 2004 (certificate of mailing date February 10, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Reza Barazesh, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the February 3, 2004 letter written by Mr. Barazesh's attorney, James F. Bogan III, establishes that the inventor refuses to participate in the filing of the application. In addition, petitioner has shown that Dun & Bradstreet Information Services has a proprietary interest in the above-identified application with the copy of the "AGREEMENT REGARDING TRADE SECRETS AND NON-SOLICITATION" showing that the company controls all trade secrets and confidential information developed during the employee's period of employment with the company. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

REZA BARAZESH
5 LE PARC COURT
WEST WINDSOR, NJ 08550

COPY MAILED

FEB 25 2004

OFFICE OF PETITIONS

In re Application of :
Reza Barazesh :
Application No. 10/397,823 : LETTER
Filed: March 26, 2003 :
Attorney Docket No. 384.7760USU :
For: GLOBAL FAILURE RISK SCORE :

Dear Mr. Barazesh:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALFRED A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Kozee et al.	:	DECISION ON PETITION
Application No. 10/397,834	:	TO WITHDRAW
Filed: March 27, 2003	:	FROM RECORD
Attorney Docket No. 23952-0149	:	

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 28, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 21, 2005 the power of attorney to Antonelli, Terry, Stout & Kraus, 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 the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sutherland II
Sutherland, Asbill & Brennan, LLC
999 Peachtree Street
Atlanta GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI TERRY STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

COPY MAILED
JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
William R. McMichael et al	:	
Application No. 10/397,836	:	DECISION ON PETITION
Filed: March 27, 2003	:	TO WITHDRAW
Attorney Docket No. 3350-113CIP1	:	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 28, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with customer No. 020457 have been revoked by the assignee of the patent application on November 21, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3624.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED Paper No. 3

SEP 2 6 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RICHARD J. DITZIK
307 SURREY DRIVE
SAN DIEGO CA 91902

In re Application of:
Richard Ditzik
Application No. 10/397,884
Filed: March 26, 2003
For: WIRELESS LOCAL AREA COMMUNICATION AND NETWORK SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 22, 2003 under 37 CFR § 1.102(d) to make the application special and supplemented with IDS submission on September 8, 2003.

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 of the above 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
(703) 305-4778

OIPE JC81
MAY 22 2003
PATENT & TRADEMARK OFFICE

#5

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Buckles *et al.*	
Serial No.: 10/397,888	**Group No.:** Not assigned
Filed: March 26, 2003	**Examiner:** Not assigned
For: FAST ACQUISITION SPREAD SPECTRUM DATA COMMUNICATION PROTOCOL	

St. Louis, Missouri
Date: May 16, 2003

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

AMENDMENT AND PETITION TO DELETE AND ADD TO ORIGINALLY NAMED INVENTOR(S) (37 CFR 1.48(a))

1. This amendment and petition is to correct the incorrect original naming of inventor(s) under 37 CFR 1.48(a)

2. Addition and/or Deletion of Inventor(s).

It is hereby requested to add the following previously unnamed person(s) as inventor(s) of this application: **Daniel M. Hatton**

It is hereby requested to delete the following previously incorrectly named inventor(s): **Ray G. Buckles and Timothy G. Pace**

3. Attachments

Attached is

(a) Declaration by original named inventor **Timothy G. Pace**.

(b) Declaration by original named inventor **Ray G. Buckles**.

(c) Declaration by newly added inventor **Daniel M. Hatton**.

(d) Inventor's declaration by **Daniel M. Hatton**.

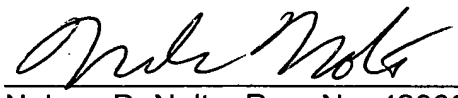
4. Fee Payment

To cover the fee required by 37 CFR 1.17(h) enclosed is a check for $130.

05/22/2003 SDENBOB1 00000078 10397888
01 FC:1460 130.00 OP

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment under 37 CFR §1.16 and §1.17 which may be required to Deposit Account No. 162201. *Duplicates of this sheet are enclosed.*

Respectfully submitted,



Nelson D. Nolte, Reg. No. 42938
Polster, Lieder, Woodruff & Lucchesi, L.C.
763 South New Ballas Road
St. Louis, MO 63141
Telephone: (314) 872-8118
Facsimile: (314) 991-2178

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 1, 2007

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10397901 Patent No.: 7197887B2

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

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: _____

_____

_____

_____

_____

Cheryl J. Tyler — 3744

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Reza Green, Esq.
Novo Nordisk Pharmaceuticals, Inc.
100 College Road West
Princeton, NJ 08540

Mail Date: 04/21/2010

Applicant	: Soren Kragh Jespersen	: DECISION ON REQUEST FOR
Patent Number	: 7597679	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/397,913	: 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 **1047** 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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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AUG 15 2008

In re Application of:	:	
Felice et al.	:	
Pat. Num.: 7318548	:	
Issue Date: 01/15/2008	:	
Application No. 10/397920	:	ON PETITION
Filing or 371(c) Date: 03/26/2003	:	
Atty. Docket No. 12078-186	:	

This is a decision on the Petition for Duplicate Letters Patent Under 37 C.F.R. 1.182, filed June 20, 2008.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Questions concerning this decision may be directed to the undersigned at 571-232-3232. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer, in the Office of Data Management at (703) 308-9250, Ext. 119.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: Niomi Farmer
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

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JENNER & BLOCK, LLP
330 N. WABASH AVENUE
CHICAGO IL 60611

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NOV 09 2009

OFFICE OF PETITIONS

In re Patent No. 6,789,803 :
Issue Date: September 14, 2004 :
Application No. 10/397,936 : DECISION ON PETITION
Filed: March 25, 2003 :
Attorney Docket No. 067-1303 CIP1-CON1 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 17, 2009 and October 8, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 15, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, 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: Richard S. Myers, Jr.
Stites & Harbison
401 Commerce Street, Ste 800
Nashville, TN 37219

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

In re application of	:	**DECISION ON PETITION**
Billy R. Powell et al.	:	**TO MAKE SPECIAL**
Application No. 10/397,944	:	**(ACCELERATED**
Filed: March 26, 2003	:	**EXAMINATION)**
For: RETRACTABLE AWNING	:	

This is in response to the petition filed on March 26, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the

application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 3/15/04

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MAY 11 2004

In re Application of	:	
Craig Dale Machado et al.	:	
Serial No. 10/397,945	:	DECISION ON PETITION
Filed: March 25, 2003	:	TO WITHDRAW AS
For: SYSTEM AND METHOD FOR PACKAGING OF FRESH PRODUCE INCORPORATING MODIFIED ATMOSPHERE PACKAGING	:	ATTORNEY

By papers filed on February 26, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

Castle and Gross, LLP
11231 Gold Express Drive, Suite 100
Gold River, CA 95670

E. Rollins-Cross, Director
Technology Center 3700

Law Office of Philip A. Steiner
846 Higuera Street, Suite 11
San Luis Obispo, CA 93401

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NOV 14 2005

In re Patent No. MACHADO ET AL.
Issue Date: April 19, 2005
Appl. No.: 10/397,945
Filed: March 25, 2003
For: SYSTEM AND METHOD FOR PACKAGING OF FRESH PRODUCE INCORPORATING MODIFIED ATMOSPHERE PACKAGING

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the request under 37 CFR 1.48 filed June 7, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" 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 "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (2) and (3).

Nathan J. Newhouse
Supervisory Patent Examiner
Art Unit 3727
Technology Center 3700

GROSS & ASSOCIATES
8541 DOMINIQUE COURT
FAIR OAKS, CA 95628

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. MACHADO ET AL.
Issue Date: April 19, 2005
Appl. No.: 10/397,945
Filed: March 25, 2003
For: SYSTEM AND METHOD FOR PACKAGING OF FRESH PRODUCE INCORPORATING MODIFIED ATMOSPHERE PACKAGING

DECISION DISMISSING PETITION
37 CFR 1.324

9/4/08

This is a decision on the petition filed March 9, 2006 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" 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 "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (3) a properly executed statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent.

The statement from Assignee, Smartpac, is not in compliance with the requirements of 37 CFR 3.73 (b). It was not signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee. This statement was signed by Craig Machado, his title that of Member.

Nathan J. Newhouse
Supervisory Patent Examiner
Art Unit 3782
Patent Examining Group 3700

GROSS & ASSOCIATES
1415 L STREET SUITE 1000
SACRAMETO, CA 95814

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

Paper No. 4

In re application of
David S. Breed et al
Application No. 10/397,950
Filed: March 26, 2003
For: APPARATUS FOR CONTROLLING A DOOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on October 14, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport from the applicant showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/cps 12/15/03

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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Peter Haffner	: DECISION ON REQUEST FOR
Patent Number	: 7603300	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/397,955	: 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 **1330** 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, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Peter Haffner
Patent Number : 7603300
Issue Date : 10/13/2009
Application No: 10/397,955
Filed : 03/26/2003

: 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 **1363** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Stern	:	
Application No. 10/397,976	:	DECISION ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. THERM-10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on January 21, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on April 22, 2005. A Notice of Abandonment was mailed on September 7, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 3739.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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CINCINNATI, OH 45202

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Roger A. Stern, et al. :
Application No.: 10/397,976 : ON PETITION
Filed: March 25, 2003 :
Attorney Docket No.: THERM-10 :

This is a decision on the petition, filed February 14, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 8, 2008, 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 3739 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Al Au Yeung
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suite 1900
1211 SW Fifth Avenue
Portland, Oregon 97204

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DEC 05 2006

Technology Center 2100

In re Application of:
MORICZ et al.
Application No. 10/397,992
Filed: March 25, 2003
For: ACCESSING DEEP WEB INFORMATION USING A SEARCH ENGINE

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed 24 July 2006, under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The petition is **GRANTED**.

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 prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission of 24 July 2006 meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application is being forwarded to the Examiner of Record for expedited examination.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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HENKEL CORPORATION
THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS PA 19406

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JUN 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shawn E. Dolan et al. :
Application No. 10/398,002 :
Filed: August 25, 2003 :
Attorney Docket No. M 6709 PCT/US :

This is a decision on the petition filed May 9, 2005, under 37 CFR 1.137(a)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 19, 2004 for failure to file a response to the non-Final Office Action mailed June 18, 2004. The instant petition and decision on petition precede the mailing of the Notice of Abandonment.

The file record discloses that the non-Final Office Action was mailed to the address of record. However, petitioner contends that it was not received. In support of this contention, copies of pages from the mail log, wherein receipt of the non-Final Office Action would have been entered, had it been received, accompany the petition. The submissions provided, corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, this matter is being referred to Technology Center 1762 for appropriate action on the amendment filed May 9, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©).

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STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

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OFFICE OF PETITIONS

In re Application of :
Trefall et al. :
Application No. 10/398,013 : DECISION ON PETITION
Filed: 21 July, 2003 :
Attorney Docket No. 53550.62 :

This is a decision on the petition filed on 27 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 March, 2006, for failure to timely file a proper reply to the final Office action mailed on 21 October, 2005, which set a three (3) month shortened statutory period for reply. On 21 March, 2006, an amendment after final rejection and request for a two (2) month extension of time in accordance with 37 CFR 1.136(a) were filed. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. An Advisory

---

[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)).

Action Before the Filing of An Appeal Brief was mailed on 6 April, 2006. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed a Request for Continued Examination (RCE) and fee as the required reply, and indicated that the previously filed amendment after final rejection is the submission required by 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3749 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Schneider et al.	:	
Application No.: 10/398055	:	ON PETITION
Filing or 371(c) Date: 04/01/2003	:	
Attorney Docket Number:	:	
3827.101	:	

This is a decision on the Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 20, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed August 23, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on November 24, 2005. A Notice of Abandonment was mailed March 8, 2006.

Applicant files the present petition and includes an Amendment in response to the Office action. 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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 1796 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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20 DEC 2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

In re Application of	:	
YOSHIDA, Yutaka	:	
Application No.: 10/398,060	:	DECISION
PCT No.: PCT/JP02/07574	:	
Int. Filing Date: 25 July 2002	:	ON PETITION UNDER
Priority Date: 26 July 2001	:	
Docket No.: 210059.0463/463US	:	37 CFR 1.10(c)
For: FUEL CELL SYSTEM	:	

This decision is in response to applicants' "Request For Corrected Filing Receipt," filed 31 July 2003. It has been treated as a Petition under 37 CFR 1.10(c).

BACKGROUND

On 25 July 2002, applicant filed international application PCT/JP02/07574, which claimed a priority date of 26 July 2001. A copy of the international application was transmitted to the United States Patent and Trademark Office from the International Bureau (IB) on 06 February 2002. The thirty month period for paying the basic national fee expired at midnight on 26 January 2004.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee and a declaration.

On 21 July 2003, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application completed the requirements of 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) on 01 April 2003.

On 31 July 2003, applicant filed the instant "Request For Corrected Filing Receipt," accompanied by, *inter alia*, a copy of the Express Mail mailing label.

DISCUSSION

In the instant petition, applicant requests that the receipt date of the application be amended to 31 March 2003. The requirements for a petition to correct a filing date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (c) 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 Director 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.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the Express Mail certificate. Applicant has provided a copy of the Express Mail mailing label with the "date-in" listed as 31 March 2003.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the national stage submission from 01 April 2003 to 31 March 2003 is **GRANTED**.

The Notice of Acceptance mailed 21 July 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for issuance of a corrected Notice of Acceptance and for handling of the Request for Corrected Filing Receipt.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 7, 2008

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No 10/398070 patent no7278501

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 7, 2008

TO SPE OF : ART UNIT [redacted] 3611

SUBJECT : Request for Certificate of Correction for Appl. No 10/398070 patent no7278501

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 7, 2008

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No 10/398070 patent no7278501

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: _____

/Lesley D. Morris/ 3611

SPE **Art Unit**

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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JUN 2 8 2010

OFFICE OF PETITIONS

In re Application of :
Wilhelm Brugger, et al. :
Application No. 10/398,073 : DECISION ON PETITION
Filed: July 16, 2003 :
Attorney Docket No. 592050-2017 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 2005. The Notice of Abandonment was mailed February 13, 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 previously filed April 9, 2008, (2) the petition fee of $1540, 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3735 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

08 JUL 2003

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

In re Application of :
Walter Aebi :
Application No.: 10/398,075 :
PCT No.: PCT/EP01/11275 : DECISION ON PETITION
Intl. Filing Date: September 28, 2001 : UNDER 37 CFR 1.137(b)
Priority Date: 30 September 2000 :
Attorney's Docket No.: DNAG-249 :
For: METHOD FOR CONNECTING IGNITORS IN AN IGNITION SYSTEM :

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137 (b)", filed 1 April 2003.

BACKGROUND

On 28 September 2001, applicants filed International Application PCT/EP01/11275 which claimed priority to an earlier application filed on September 30, 2000.

On 1 April 2003, applicants filed 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. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 March 2003.

On 1 April 2003, applicant filed the present petition which was accompanied by the petition fee, a authorization to charge Deposit Account No. 50-0624, a preliminary amendment, a copy of the international application, an English translation of the international application, and an Information Disclosure Statement.

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 is 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 petition under 37 CFR 1.137 (b) is **GRANTED**.

Deposit account 50-0624 will be charged $130.00 surcharge for filing the English translation of the international application thirty months after the priority date.

The application file is being forwarded to DO/EO for issuance of a Notification of Missing Requirements under 35 USC 371 requiring an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

Boris Milef
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

Telephone: (703) 305-0010
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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
Henricus Wilhelmus A. Berkelmans
Application No. 10/398,082
Filed: August 1, 2003
Attorney Docket No. 9424.185USWO

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 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, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Roelof Reinders	: DECISION ON REQUEST FOR
Patent Number	: 7583618	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/398,149	: OF WYETH
Filed	: 09/04/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

15 DEC 2004

#10

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David C. Foster
Dorsey & Whitney, LLP
4 Embarcadero Center
Suite 3400
San Francisco, CA 94111

In re Application of
WALT
U.S. Application No.: 10/398,157
PCT No.: PCT/US01/31581
Int. Filing Date: 09 October 2001
Priority Date: 06 October 2000
Attorney Docket No.: A-67207-4/RMS/DCF
For: SELF-ENCODING SENSOR WITH MICROSPHERES

DECISION ON PETITIONS

UNDER 37 CFR 1.137(b)

AND 37 CFR 1.497(d)

I. Petition Under 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 June 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a proper reply in the form of the petition under 37 CFR 1.497 and executed declaration as discussed below 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.

II. Petition Under 37 CFR 1.497(d)

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Dr. Shannon Stitzel declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant previously filed a combined declaration and power of attorney executed by the inventor named in the published international application, David R. Walt, as well as, Shannon Stitzel.

As Item (3), applicant has authorized the charging of the $130.00 petition fee to Deposit Account No.: 50-2319.

Regarding Item (4), applicant has provided the written consent of the assignee.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the petitions under 37 CFR 1.137(b) and 37 CFR 1.497(d) are **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 09 October 2001 and a date of **28 June 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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OCT 13 2006

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JASON D. VOIGHT
1300 EYE STREET N.W.
400 EAST TOWER
WASHINGTON DC 20005

In re Application of :
HAUER et al :
Serial No.: 10/398,178 :
371 or Filing Date : 2 April 2003 :
Attorney Docket No.: 51821 :

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 23 March 2006 requesting review of a lack of unity determination. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/EP01/11958 and as such, is eligible for unity of invention practice.

In a written lack of unity determination mailed 23 August 2005, the examiner divided the 21 claims into 3 groups as follows:

Group I, claim(s) 1-6, 16-20, drawn to a cytochrome P450 monooxygenase comprising a fragment of SEQ ID NO: 2, and a method of use of said monooxygenase for the microbiological oxidation of an organic compound.

Group II, claim(s) 7-15, drawn to a nucleic acid which encodes a cytochrome P450 monooxygenase and variants thereof, vectors and host cells comprising said nucleic acid, and a method of use of said nucleic acid in the recombinant production of a cytochrome P450.

Group III, claim(s) 21, drawn to a bioreactor comprising a cytochrome P450 monooxygenase.

The examiner supported this determination in view of the prior art reference Zamorano which teaches the shared technical feature, a cytochrome P450 comprising amino acid 222-225 and 328-330 of SEQ ID No 2.

On 21 September 2005, applicants elected Group I, claims 1-6 and 16-20 with traverse, stating that the reference does not teach the shared technical feature as it only reads upon part of the sequence.

In the first action of the merits mailed 16 December 2005, the examiner considered the traversal and made the unity of invention determination FINAL.

> Claims 1-6 were rejected under 35 USC 101 for non-statutory subject matter.
> Claims 1-3, 4-6 and 16-20 were rejected under 35 USC 112, 2nd for indefiniteness.
> Claims 1-6 and 16 were rejected under 35 USC 112, 1st, for lack of an adequate written description and for scope of enablement.

DISCUSSION

Applicants' petition filed 23 March 2006 has been considered carefully. PCT Rule 13.2 states that inventions have unity when they share a technical feature that makes a contribution over the prior art. The petition argues that the claims as amended distinguish over the prior art, thus the groups share a special technical feature and have unity of invention.

This argument is persuasive with regard to the inventions in Groups I and III. Group III is directed to a bioreactor encompassing the enzyme of claim 1.

This argument is not persuasive with regard to the inventions in Group I and II. Group I is directed to a polypeptide. Group II is directed to a nucleic acid which encodes that polypeptide. Unity of invention may be present when the all nucleic acid molecules encompassed by the claims encode the polypeptide invention.

PCT International Search and Examination Guidelines provides an example to address unity of invention between DNA and protein. See Example 39 on Page 98 of http://ptoweb/patents/opla/documents/ispeguide.pdf, reproduced below:

"10.59 Example 39: Protein and its Encoding DNA

Claim 1: Isolated protein X having SEQ ID NO: 1.

Claim 2: Isolated DNA molecule encoding protein X of claim 1.

(Some Authorities presume that a claimed biological molecule is in isolated form and therefore do not require the claim to explicitly include the term "isolated" as above.)

The disclosure teaches that protein X is an interleukin-1, a soluble cytokine involved in the activation of lymphocytes. The disclosure also sets forth a DNA molecule having SEQ ID NO: 2 that encodes SEQ ID NO: 1.

There is no prior art.

The claimed DNA molecule encodes protein X, and therefore protein X and the DNA encoding protein X share a corresponding technical feature. Consequently, the claims have unity of invention (a priori).

Because protein X makes a contribution over the prior art, protein X and the DNA encoding protein X share a special technical feature.

If an alternative DNA claim was presented that encompassed a DNA molecule that did not encode protein X, some Authorities might find that the claims did not share the same or corresponding technical feature and therefore lacked unity. Examples of such a claim follow:

Isolated DNA molecule encoding protein X, or a DNA fragment thereof.

Isolated DNA molecule having SEQ ID NO: 2, or DNA molecules which hybridise to SEQ ID NO: 2 under stringent conditions.

If prior art existed teaching either protein X or the DNA encoding protein X, some Authorities might find that the same or corresponding technical feature did not make a contribution over the prior art, that is, was not a special technical feature, and therefore unity was lacking (a posteriori)."

In the instant application, the nucleic acid recited in the claims of Group II refers to but is not required to encode the protein of Group I. The oligonucleotides which hybridize to or which are essentially complementary to a sequence encoding a cytochrome P450 may contain alterations that result in stop codons or frameshift mutations. See claims 7 and 8 set forth below for examples. The resulting open reading frame is not required to encode the cytochrome of claim 1. For this reason, Group I and II fail to share a technical feature and unity is lacking between Group I and II.

7. (withdrawn) An oligonucleotide which hybridizes with a nucleic acid sequence encoding a cytochrome P450 monooxygenase as claimed in claim 1.

8. (withdrawn) An oligonucleotide as claimed in claim 7 which encompasses a nucleic acid sequence which is essentially complementary to a nucleotide sequence region in accordance with SEQ ID NO:1 encompassing at least 45 successive nucleotide residues.

It is noted that the examiner has restricted between process of making and product made. Should all the claims directed to the elected product invention become allowable, methods of making the allowable product may be eligible for rejoinder in view of 821.04(a).

DECISION

The petition filed under 37 CFR 1.144 is **GRANTED-IN-PART** to the extent that the restriction requirement between Group III and Group I has been withdrawn.

The application will be forwarded to the examiner to rejoin claim 21 for examination and to consider the response filed 16 March 2006.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

Bruce Kisliuk
Director, Technology Center 1600

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19 AUG 2003

Diana Hamlet-Cox
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of :
TANG, et al. :
U.S. Application No.: 10/398,197 : DECISION ON PETITION
PCT No.: PCT/US01/30591 :
Int. Filing Date: 01 October 2001 : UNDER 37 CFR 1.182
Priority Date: 02 October 2000 :
Attorney's Docket No.: PI-0817 USN :
For: CARBOHYDRATE-ASSOCIATED PROTEINS :

This decision is in response to applicant's "Communication re Inventor Name Change" filed 01 April 2003 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 01 October 2001, applicant filed international application PCT/US01/30591, which claimed priority of an earlier application filed 02 October 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 02 April 2003.

On 01 April 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed combined declaration and power of attorney of the inventors; an assignment document for recording; a First Preliminary amendment; a Sequence Listing and the present petition accompanied by a statement signed by Narinder Chawla.

08/22/2003 SNAJARRO 00000003 090108 10398197
01 FC:1460 130.00 DA

DISCUSSION

Communication with the International Bureau (IB) finds that a 92bis change regarding inventor Narinder Chawla nee Walia has not been recorded by the IB. As such, the present communication is being treated as a petition under 37 CFR 1.182 to change the name of the inventor in the National stage. As authorized the $130.00 petition fee will be charged to Deposit Account No.: 09-0108.

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; specifically the inventor's name has changed due to marriage.

The inventor's statement is executed by Mrs. Narinder Chawla using both her current and maiden names. As such, it is appropriate to grant applicant's petition under 37 CFR 1.182 at this time.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Narinder Walia to Narinder Chawla is **GRANTED**.

The application has an international filing date of 01 October 2001 under 35 U.S.C. 363 and a date of **01 April 2003** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

8 JUL 2004

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Arnold H Krumholz
Lerner David Littenberg Krumholz & Mentlik LLP
600 South Avenue West
Westfield NJ 07090

In re Application of	:	
SODERBERG	:	
Application No.: 10/398,199	:	DECISION
PCT No.: PCT/SE01/02059	:	
Int. Filing Date: 25 September 2001	:	
Priority Date: 06 October 2000	:	
Attorney Docket No.: B&LAB-011	:	
For: METHOD AND APPARATUS FOR	:	
SEPARATION OF STEAM AND GAS FROM	:	
POSSIBLY GLUE-COATED FIBER PULP	:	
PRODUCED BY A REFINER	:	

This decision is in response to applicant's submissions filed via facsimile transmissions in the United States Patent and Trademark Office (USPTO) on 24 May 2004 and 06 July 2004, which have been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/SE01/02059, which designated the United States and 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003 (06 April 2003 being a Sunday).

On 03 April 2003, applicants filed, *inter alia*, 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 29 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two-month extendable period for reply.

On 24 May 2004, applicant filed a submission via facsimile transmission which has been construed as requesting that the copy of the declaration of the inventor filed with this submission be treated as having been received in the USPTO on 29 September 2003. The submission was also accompanied by a USPTO date-stamped postcard receipt.

On 06 July 2004, in response to a request from the undersigned, applicant submitted a second submission via facsimile transmission stating that the copy of the postcard receipt submitted 25 May 2004 is a true copy and the copy of the declaration of the inventor filed 25 May 2004 is a true copy of the declaration filed 29 September 2003.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 29 September 2003 applicant filed a declaration of the inventor. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 29 September 2003 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 24 May 2004 is a copy of the declaration originally filed 29 September 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 24 May 2004 may properly be accepted as originally received in the USPTO on 29 September 2003.

The declaration filed 29 September 2003 fails to comply with 37 CFR 1.497(a)-(b) because it fails to correctly identify the specification to which it is directed. The declaration states that the specification was filed on 26 September 2001 as PCT International Application No. PCT/SE01/02059. However, the international filing date for PCT/SE01/02059 is 25 September 2001. (Also, the title of the international application identified in the declaration contains a typographical error ("BLUE" should read "GLUE").) The surcharge under 37 CFR 1.492(e) has been paid.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

Since the reply filed 29 September 2003 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

23 AUG 2004

#7

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Arnold H Krumholz
Lerner David Littenberg Krumholz & Mentlik LLP
600 South Avenue West
Westfield NJ 07090

In re Application of	:	
SODERBERG	:	
Application No.: 10/398,199	:	DECISION
PCT No.: PCT/SE01/02059	:	
Int. Filing Date: 25 September 2001	:	
Priority Date: 06 October 2000	:	
Attorney Docket No.: B&LAB-011	:	
For: METHOD AND APPARATUS FOR	:	
SEPARATION OF STEAM AND GAS FROM	:	
POSSIBLY GLUE-COATED FIBER PULP	:	
PRODUCED BY A REFINER	:	

This decision is in response to applicant's submission filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 29 July 2004.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/SE01/02059, which designated the United States and 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003 (06 April 2003 being a Sunday).

On 03 April 2003, applicants filed, *inter alia*, 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 29 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two-month extendable period for reply.

On 24 May 2004, applicant filed a submission via facsimile transmission which has been construed as requesting that the copy of the declaration of the inventor filed with this submission

be treated as having been received in the USPTO on 29 September 2003. The submission was also accompanied by a USPTO date-stamped postcard receipt.

On 06 July 2004, in response to a request from the undersigned, applicant submitted a second submission via facsimile transmission stating that the copy of the postcard receipt submitted 25 May 2004 is a true copy and the copy of the declaration of the inventor filed 25 May 2004 is a true copy of the declaration filed 29 September 2003.

On 08 July 2004, a decision was mailed granting applicant's petition under 37 CFR 1.181 requesting that the declaration received on 24 May 2004 be accepted as originally received in the USPTO on 29 September 2003. The decision also indicated that the declaration filed 29 September 2003 was not in compliance with 37 CFR 1.497(a)-(b) and that a new declaration was required.

On 29 July 2004, applicant filed the instant submission via facsimile transmission which included, *inter alia*, a new declaration of the inventor.

On 04 August 2004, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that a new declaration of inventors was required.

DISCUSSION

The declaration of the inventor filed 29 July 2004 is in compliance with 37 CFR 1.497(a)-(b). The NOTIFICATION OF DEFECTIVE RESPONSE mailed 04 August 2004 is hereby VACATED.

CONCLUSION

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 04 August 2004 is VACATED.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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FEB 21 2008

In re Application of	:	
Gunter Kollross	:	
Application No. 10/398,244	:	DECISION GRANTING PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P07905US00/DEJ	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed October 13, 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 3643.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 19, 2007

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No./10/398246patent no.6912949

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: _____

_____

_____

_____

_____

_____ 3742

SPE **Art Unit**

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MAY 07 2010

OFFICE OF PETITIONS

Sterne, Kessler, Goldstein &
Fox, P.L.L.C.
1100 New York Avenue, NW
Washington DC 20005

In re Application of :
Jackson : DECISION ON
Application No.10/398,248 : APPLICATION FOR
Filed: August 1, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No.
2479.0050001/EJH/C-K

This decision is in response to the "REQUEST FOR RECONSIDERATION OF TERM ADJUSTMENT DETERMINATION UNDER 37 CFR 1.705(b)" filed November 7, 2008. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred and thirty one (431) days, not three hundred and twenty four (324) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment in the Notice of Allowance. Applicant requests this correction 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). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of

issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent 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

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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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).
The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Questions concerning too much time may be addressed at the time of the issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-7757.

/Kery A. Fries/

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration

20 APR 2004

#6

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20 APR 2004

Benton S. Duffet, Jr.
Burns, Doane, Swecker & Mathis, L.L.P
P.O. Box 1404
Alexandria, Virginia 22313-1404

In re Application of :
KONIECZNY et al. :
Application No.: 10/398,249 :
PCT No.: PCT/SE01/01997 : DECISION ON PETITION
Int. Filing Date: 19 September 2001 :
Priority Date: 03 October 2000 :
Attorney Docket No.: 003301-026 :
For: PROCESS FOR PRODUCTION OF AN ABSORBING SANITARY ARTICLE COMPRISING LACTIC ACID. . . .

This is a decision on applicants' "Petition under 37 CFR 1.182" filed in the Patent and Trademark Office (PTO) on 03 November 2003. Applicants are requesting to change the name of the first-named inventor from Hanna Konieczny to Hanna Tengberg due to marriage. The petition was accompanied by an affidavit signed by Hanna Tengberg using both her former name and present name. The $130 petition fee and the $55 extension of time fee will be charged to Deposit Account no. 02-4800.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 03 April 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Hanna Konieczny to Hanna Tengberg is **GRANTED**. This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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FEB 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Richards et al.	:	DECISION ON PETITION
Application No. 10/398,262	:	UNDER 37 CFR 1.137(b)
Filed: June 3, 2003	:	
Docket No. CAF-31302/03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2005, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on February 7, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on May 8, 2005. This petition preceded the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3672.

Telephone inquiries specific to this decision 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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OFFICE OF PETITIONS

In re Patent No. 7,119,092 :
Issued: October 10, 2006 : DECISION ON APPLICATION FOR
Application No. 10/398,264 : PTA and NOTICE OF INTENT TO
Filed: July 29, 2003 : ISSUE CERTIFICATE OF
Atty. Dkt. No.: PI4167SW : CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under 37 CFR 1.705(d)," filed December 6, 2006.

The application for patent term adjustment ("PTA") is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,119,092 on October 10, 2006. The instant request for reconsideration of patent term adjustment was timely filed December 6, 2006. The patent issued with a PTA of 459 days. Patentees argue that the correct adjustment is 570 days. Patentees further argue that the adjustment of 120 days is in error and that the correct adjustment should be nine days.

An adjustment of totaling 579 days can be attributed to the Office, as undisputed by patentees.

The adjustment of 579 days is properly reduced 10 days in accordance with 37 CFR 1.704(c)(10) in connection with the petition filed June 15, 2005. The reduction began June 15, 2005, the date that the petition was filed, and ended June 24, 2005, the date that a response to the petition was mailed.

The adjustment of 579 was errantly reduced 110 days relative to a "MISCELLANEOUS INCOMING LETTER" dated June 5, 2005. A review of the official record does not reveal that a letter was received on June 5, 2005. Accordingly, the reduction of 110 days has been restored.

In view thereof, the patent is entitled to an adjustment of 559.

The required application fee of $200.00 has been charged to Deposit Account No. 07-1392 as authorized.
This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 USC 154(b) by 559 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Monday
Date: 2/26/2007

PALM INTRANET

Time: 14:35:07

PTA Calculations for Application: 10/398264			
Application Filing Date:	07/29/2003	PTO Delay (PTO):	579
Issue Date of Patent:	10/10/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	559
PTO Delay Adjustment:	100		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	02/26/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
60	02/26/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	110		
55.5	09/20/2006	PTA 36 MONTHS			
55	10/10/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	360		50
54	09/14/2006	RECEIPT INTO PUBS			
53	09/12/2006	DISPATCH TO FDC			
52	09/12/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
50	06/15/2005	ISSUE FEE PAYMENT VERIFIED			
49	06/05/2005	MISCELLANEOUS INCOMING LETTER		110	
48	09/01/2006	RECEIPT INTO PUBS			
47	06/15/2005	ISSUE FEE PAYMENT VERIFIED			
46	08/29/2006	WORKFLOW - QUERY REQUEST - FINISH			
45	08/22/2006	WORKFLOW - QUERY REQUEST - BEGIN			
44	08/21/2006	WORKFLOW - QUERY REQUEST - FINISH			
43	08/15/2006	TC RETURN TO PUBS			
42	06/20/2006	PUBS CASE REMAND TO TC			
41	07/17/2006	WORKFLOW - QUERY REQUEST - BEGIN			
40	06/14/2006	WORKFLOW - QUERY REQUEST - FINISH			
39	05/24/2006	WORKFLOW - QUERY REQUEST - BEGIN			
38	05/24/2006	TC RETURN TO PUBS			
37	04/17/2006	PUBS CASE REMAND TO TC			
36	04/18/2006	WORKFLOW - QUERY REQUEST - BEGIN			
35	03/03/2006	WORKFLOW - FILE SENT TO CONTRACTOR			
34	06/24/2005	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			

33	06/24/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
32	06/15/2005	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		10	34
31	06/15/2005	ISSUE FEE PAYMENT RECEIVED			
30	05/18/2005	EXPORT TO INITIAL DATA CAPTURE			
29	05/06/2005	MAIL NOTICE OF ALLOWANCE	219		-1
28	05/06/2005	MAIL OATH OF DECLARATION REQUIRED			
27	05/04/2005	ISSUE REVISION COMPLETED			
26	05/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	05/04/2005	OATH OR DECLARATION REQUIRED			
24	05/04/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	05/03/2005	NOTICE OF ALLOWABILITY			
22	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	03/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/15/2004	REFERENCE CAPTURE ON IDS			
18	11/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/09/2004	PRELIMINARY AMENDMENT			
16	09/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	05/07/2004	REFERENCE CAPTURE ON IDS			
14	05/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/18/2004	REFERENCE CAPTURE ON IDS			
12	05/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	05/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	07/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/10/2003	CLEARED BY OIPE CSR			
6	08/11/2003	APPLICATION DISPATCHED FROM OIPE			
5	08/11/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	07/29/2003	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

3	07/29/2003	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Patent No. 7,119,092 :
Issued: October 10, 2006 : DECISION ON APPLICATION FOR
Application No. 10/398,264 : PTA and NOTICE OF INTENT TO
Filed: July 29, 2003 : ISSUE CERTIFICATE OF
Atty. Dkt. No.: PI4167SW : CORRECTION

This decision is in response to the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT under § 1.705(d)," filed March 20, 2007.

The application for patent term adjustment ("PTA") is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,119,092 on October 10, 2006. A request for reconsideration of patent term adjustment was timely filed December 6, 2006 to which a decision was mailed March 15, 2007. The patent issued with a PTA of 559 days. Patentees argue that the correct adjustment is 569 days, the adjustment having been reduced 10 days in error.

An adjustment of totaling 579 days can be attributed to the Office, as undisputed by patentees.

The adjustment of 579 days is properly reduced 10 days in accordance with 37 CFR 1.704(c)(10) in connection with the petition filed June 15, 2005. The reduction began June 15, 2005, the date that the petition was filed, and ended June 24, 2005, the date that a response to the petition was mailed.

The adjustment of 579 was errantly reduced an additional 10 days prior to issuance of the patent. Accordingly, the reduction of 10 days has been restored.

In view thereof, the patent is entitled to an adjustment of 569, as argued by patentees.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction

to indicate that the term of this patent is extended or adjusted under 35 USC 154(b) by 569 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT

CERTIFICATE OF CORRECTION

PATENT	:	7,119,092 B2
DATED	:	October 10, 2006
INVENTOR(S)	:	Alvaro, 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 459 days

Delete the phrase "by 459 days" and insert – by 569 days--

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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON, DC 20001-4413

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Egbert Krause et al	:	
Application No. 10/398,273	:	DECISION GRANTING PETITION
Filed: August 8, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7386 US	:	

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 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2874 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
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).*

- 9 JUL 2010

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NORRIS MCLAUGHLIN & MARCUS, PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

In re Application of	:	
Cartellieri et al.	:	
Application No.: 10/398,276	:	DECISION
PCT No.: PCT/EP01/11503	:	
Int. Filing Date: 05 October 2001	:	ON
Priority Date: 06 October 2000	:	
Attorney Docket No.: 101769-208/TESA 1590-WCG	:	PETITION
For: Method For Producing Crosslinked	:	
Acrylate Hot-Melt Adhesive Compounds	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 18 February 2010 (which is a copy of a petition filed on 12 September 2003)..

BACKGROUND

This international application was filed on 05 October 2001, claimed an earlier priority date of 06 October 2000, and designated the U.S. 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 06 April 2003. Applicants filed *inter alia* the basic national fee on 04 April 2003.

On 18 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) then in effect.

On 12 September 2003, applicants filed a response, including a declaration.

On 25 September 2003, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants.

DISCUSSION

Review of the record reveals that the declaration filed on 12 September 2003 was not executed by all of the inventors named therein. Therefore, it did not comply with 37 CFR 1.497(a) and (b). Accordingly, the Notice of Acceptance mailed on 25 September 2003 was issued in error, and it is hereby **VACATED**.

Petitioner asserts that the instant petition is a copy of a petition originally filed on 12 September 2003, and provides a copy of a return postcard receipt itemizing *inter alia* the petition under 37 CFR 1.47, and stamped as "Rec'd PCT/PTO 12 SEP 2003." MPEP 503 states (in part) that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, the instant petition is regarded as a copy of the petition originally filed on 12 September 2003 and itemized on the postcard receipt.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee is being charged to Deposit Account No. 14-1263, per the authorization included in the petition.

Regarding **requirement (2)**, petitioner has provided a statement by Anette Rosner, who describes her efforts to obtain the non-signing inventor's execution of the application. Ms. Rosner provides a copy of a German language letter to Mr. Cartellieri, dated "11.03.03," but has not provided an English translation thereof. Ms. Rosner appears to imply that a declaration and "application papers" were sent to Mr. Cartellieri, but the evidence of record does not adequately establish that he was presented with both an oath or declaration for signature and a complete copy of the application papers. Clarification is required.

Regarding **requirement (3)**, the petition states the last-known address of the non-signing inventor.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 12 September 2003 reveals that it satisfies this requirement.

DECISION

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)." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail 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.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

28 AUG 2006

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Jeffrey L. Garwin, M.D., Ph.D.
1730 Ambria Court
Mundelein, IL 60060-4800

In re Application of :
GARWIN :
Application No.: 10/398,297 : DECISION ON PETITION
PCT No.: PCT/US01/31572 :
Int. Filing Date: 09 October 2001 : UNDER 37 CFR 1.10
Priority Date: 06 October 2000 :
Atty Docket No.: UTC-0075 :
For: A DYNAMIC HEALTH METRIC REPORTING :
METHOD AND SYSTEM :

This decision is in response to applicant's "Petition to Accord Correspondence Filing Date Shown on Express Mail Label "Date-In" (37 CFR § 1.10(c))" filed 29 January 2004 in the United States Patent and Trademark Office (USPTO). No petition fee is required

BACKGROUND

On 09 October 2001, applicant filed international application PCT/US01/31572, which claimed a priority date of 06 October 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 April 2003.

On 03 April 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 28 July 2003, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 02 September 2003, applicant filed a response including an executed declaration.

On 25 September 2003, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) which indicated a date of completion of the 35 U.S.C. 371 requirements as 09 September 2003.

On 29 January 2004, applicant filed the petition considered herein.

DISCUSSION

37 CFR 1.10(c) states that an applicant filing correspondence under 37 CFR 1.10 which is received by the USPTO who can show that there is a discrepancy between the "Date-in" date on the Express Mail label and the date accorded by the USPTO may petition the Director to accord a filing date as of the "Date-in" on the mailing label 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 (United States Postal Service) 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.

Applicant has satisfied all three items above and it is therefore proper to grant applicant's petition.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The Form PCT/DO/EO/903 mailed 25 September 2003 is hereby **VACATED**.

The application will be given an international filing date of 06 October 2000 under 35 U.S.C. 363 and a date of **02 September 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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WOODCOCK WASHBURN LLP
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

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OFFICE OF PETITIONS

In re Application of :
GARWIN :
Application No. 10/398,297 : DECISION ON PETITION
Filed: September 09, 2003 : TO WITHDRAW
Attorney Docket No. UTC-0075 : 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, 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 Bruce D. George on behalf of all attorneys of record.

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 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

cc: Jeffrey L. Garwin, M.D., Ph.D.
1730 Ambria Court
Mundelein, IL 60060-4800

#2

PTO/SB/64 (10-01)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) GOTE.P-049

First named inventor: NAYERI, Fariba

Application No.: PCT/SE01/01831 Art Unit:

Filed: Herewith Examiner:

Title: The Synergetic Effects of HGF and Antibacterial Treatment

RECEIVED
19 AUG 2003
International Division

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee $ 1300.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):
☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee of $_____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

04/09/2003 SKASSAY0 00000141 10398304
04 FC:1453

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: 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.

04/02/2003
Date

Marina T Larson
Signature

Telephone Number: (970-468-6600

Marina T. Larson, Ph.D.
Typed or printed name

Oppedahl & Larson LLP
P.O. Box 5068
Address
Dillon, Colorado 80345-5068

Enclosures:
☒ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: US National Stage Application; Declaration; Preliminary Amendment

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

_____
Date

_____
Signature

_____
Type or printed name of person signing certificate

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12 SEP 2003

Oppedahl & Larson LLP
PO Box 5068
Dillon, CO 80345-5068

In re Application of :
Nayeri :
US Application No.: 10/398,304 :
PCT Application No.: PCT/SE01/01831 : **DECISION ON**
International Filing Date: 28 August 2001 : **PETITION FOR REVIVAL**
Priority Date: 28 August 2000 : **UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: GOTE.P-049 :
For: THE SYNERGETIC EFFECTS OF HGF :
AND ANTIBACTERIAL TREATMENT :

This decision is in response to the petition under 37 CFR 1.137(b), filed on 02 April 2003.

On 28 August 2001, Applicant filed international application PCT/SE01/01831, which claimed priority of an earlier application filed on 28 August 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 07 March 2002. The period for paying the basic national fee is 30 months and ended at midnight on 28 February 2003.

The basic national fee was not paid on or before 28 February 2003. The international application became abandoned as to the United States on 01 March 2003.

The petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), authorizing the USPTO to charge the $1,060 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3) to a credit card;

(2) An authorization to charge the $1,300 petition fee to the same credit card;

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

The petition is thus **GRANTED**.

Also submitted with the instant petition is a "Combined Declaration and Power of Attorney" executed by the inventor. A review of this declaration reveals that it complies with the requirements of 37 CFR 1.497(a) and (b). Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 August 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 02 April 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

08 JUL 2003

UNITED STATES PATENT AND [redacted]MARK OFFICE

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#3

George A. Gilbert
AstraZeneca Pharmaceuticals
1800 Concord Pike
OW2 R&D
Wilmington, DE 19850

In re Application of	:	
ROBERTSON	:	
U.S. Application No.: 10/398,307	:	DECISION ON PETITION
PCT No.: PCT/SE01/01879	:	
Int. Filing Date: 31 August 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 05 September 2000	:	
Attorney Docket No.: 100153	:	
For: NEW USE OF QUETIAPINE	:	

The petition to revive under 37 CFR 1.137(b) filed 03 April 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **03 April 2003**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

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ASTRA ZENECA PHARMACEUTICALS LP
GLOBAL INTELLECTUAL PROPERTY
1800 CONCORD PIKE
WILMINGTON DE 19850-5437

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Robertson :
Application No. 10/398,307 : DECISION ON PETITION
Filed: April 3, 2003 :
Title: Use of Quetiapine :

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of March 30, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on September 11, 2006. An Advisory Action mailed on November 3, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on October 1, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Paul K. Legaard, Ph.D.
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103

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#4

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15 SEP 2003

Harry M. Levy
Emrich & Dithmar
300 S. Wacker Drive #3000
Chicago IL 60606

In re Application of	:	
GRUEN et al.	:	DECISION ON
Application No.: 10/398,329	:	
PCT No.: PCT/US01/31388	:	PAPERS
Int. Filing Date: 09 October 2001	:	
Priority Date: 09 October 2000	:	UNDER 37 CFR 1.42
Attorney's Docket No.: ANL 226	:	
For: ELECTRODE AND ELECTRON EMISSION APPLICATIONS FOR N-TYPE DOPED NANOCRYSTALLINE MATERIAL	:	

This decision is in response to applicants' submission filed on 22 July 2003, which was accompanied by, *inter alia*, a declaration of inventors. A review of the Declaration reveals an indication that joint inventor Alan R. Kraus is deceased. Applicants' submission with the indication that joint inventor Kraus is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 09 October 2001, applicant filed international application PCT/US01/31388 which claimed a priority date of 09 October 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 April 2002. The thirty-month period for paying the basic national fee in the United States expires at midnight on 09 April 2003.

On 04 April 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 22 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of inventors filed 04 April 2003 was not executed and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

Application No.: 10/398,329

DISCUSSION

The declaration filed 22 July 2003 fails to comply with 37 CFR 1.497(a)-(b) for the reasons set forth below.

-It is not clear whether the information below Julie R. Kraus's name is her residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Alan R. Kraus. In any event, the declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3).

-This declaration also fails to comply with 37 CFR 1.497(a)-(b) since the citizenship of inventor Ding Ming is not indicated in the declaration.

-This declaration also fails to comply with 37 CFR 1.497(a)-(b) because it does not accurately indicate the specification which is being executed. The international filing date for PCT/US01/31388 is 09 October 2001 rather than 10 October 2001 as indicated in the declaration filed 22 July 2003.

-Additionally, pages 1-3 of the declaration appear to be sheets which have only been faxed once while page 4 appears to have been transmitted by facsimile at least twice. This suggests that the first three pages of the declaration were not associated with the fourth page at the time of execution, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

-Lastly, this declaration fails to comply with 37 CFR 1.497(a)-(b) because it fails to identify the inventor Alan R. Krauss. The difference in the names of the inventor in the published international application (Alan R. Krauss in the published international application) and the declaration (Alan R. Kraus) must be explained. Attention is directed to MPEP § 605.04(c) if there has been a change of name and to MPEP § 605.04(g) if there is a typographical or transliteration error.

Consequently, a new oath(s) or declaration(s) in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD

Application No.: 10/398,329

FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Daniel Stemmer
Legal Examiner
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22 DEC 2004

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Harry M. Levy
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Chicago IL 60606

In re Application of	:	
GRUEN et al.	:	DECISION
Application No.: 10/398,329	:	
PCT No.: PCT/US01/31388	:	
Int. Filing Date: 09 October 2001	:	
Priority Date: 09 October 2000	:	
Attorney's Docket No.: ANL 226	:	
For: ELECTRODE AND ELECTRON EMISSION APPLICATIONS FOR N-TYPE DOPED NANOCRYSTALLINE MATERIAL	:	

This decision is in response to applicants' submission filed on 19 October 2004.

BACKGROUND

On 09 October 2001, applicants filed international application PCT/US01/31388 which claimed a priority date of 09 October 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 April 2002. The thirty-month period for paying the basic national fee in the United States expires at midnight on 09 April 2003.

On 04 April 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 22 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of inventors filed 04 April 2003 was not executed and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 22 July 2003, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors including an indication that inventor Alan R. Kraus is deceased. The submission was treated as a request for status under 37 CFR 1.42.

Application No.: 10/398,329

On 15 September 2003, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision noted that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. A two-month extendable time period was set.

On 12 May 2004, applicants filed a submission including a copy of a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", a copy of a declaration of Julie R. Krauss, a copy of a declaration of inventors, a petition/fee for a five month extension of time, and a copy of a Transmittal Letter dated 04 May 2004 authorizing any additional fees to be charged to Deposit Account 05-1060.

On 19 October 2004, applicants filed a submission including a copy of a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", a copy of a declaration of Julie R. Krauss, a copy of a declaration of inventors, a petition/fee for a five month extension of time, a copy of a Transmittal Letter dated 04 May 2004 authorizing any additional fees to be charged to Deposit Account 05-1060, a copy of a postcard receipt date-stamped 04 May 2004 by the USPTO, and a copy of a postcard receipt date-stamped 12 May 2004 by the USPTO.

DISCUSSION

Petition Under 37 CFR 1.181 to Accept Papers as Having Been Filed on 04 May 2004

As noted below, the copy of the declaration filed 12 May 2004 and the copy of the declaration filed 19 October 2004 are different. These declarations should be identical however in that each is purported to be a copy of the declaration filed 04 May 2004. At least one of these declarations, and perhaps both of them, cannot be the copy of the declaration filed 04 May 2004.

Petition Under 37 CFR 1.181 to Accept Papers as Having Been Filed on 12 May 2004

The papers originally filed 12 May 2004 have now been matched with the file. Accordingly, the petition under 37 CFR 1.181 filed 19 October 2004 regarding these papers is moot.

It is noted that the submission filed 12 May 2004 does not include the application number.

Declaration of Inventors

The copy of the declaration of inventors filed **12 May 2004** includes a "[Page 2 of 2]" and supplemental sheets for additional inventors "Page 1 of 2", a second "Page 1 of 2" and "Page 2 of 2". This copy of the declaration is not in compliance with 37 CFR 1.497(a)-(b) for the following reasons.

-It is not clear what specification is being executed since the first page of the declaration is missing.

--The declaration is not signed by a representative signing on behalf of deceased inventor Alan R.

Krauss. Note that any declaration signed by a legal representative of Alan R. Krauss must include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3).
-This declaration also fails to comply with 37 CFR 1.497(a)-(b) since the citizenship of inventor Ding Ming is not indicated in the declaration.
-Each page of the declaration appears very different from each of the other pages, e.g. in reproduction quality, in whether or not it appears to have been faxed, etc. This suggests that each page of the declaration was not associated with the other pages at the time of execution, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.
-Lastly, this declaration fails to comply with 37 CFR 1.497(a)-(b) because it fails to identify the inventor Alan R. Krauss. The difference in the names of the inventor in the published international application (Alan R. Krauss in the published international application) and the declaration (Alan R. Kraus) must be explained. Attention is directed to MPEP § 605.04(c) if there has been a change of name and to MPEP § 605.04(g) if there is a typographical or transliteration error.

The copy of the declaration of inventors filed **19 October 2004** includes a "[Page 1 of 2]" and supplemental sheets for additional inventors "Page 1 of 2" and "Page 2 of 2". This copy of the declaration is not in compliance with 37 CFR 1.497(a)-(b) for the following reasons.
-It fails to identify inventors Dieter M. Gruen and Alan R. Krauss ([Page 2 of 2] of the declaration appears to be missing).
-The declaration is not signed by Dieter M. Gruen or by a representative signing on behalf of deceased inventor Alan R. Krauss. Note that any declaration signed by a legal representative of Alan R. Krauss must include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3).
-This declaration also fails to comply with 37 CFR 1.497(a)-(b) since the citizenship of inventor Ding Ming is not indicated in the declaration.
-This declaration also fails to comply with 37 CFR 1.497(a)-(b) because it does not accurately indicate the specification which is being executed. The international filing date for PCT/US01/31388 is 09 October 2001 rather than 10 October 2001 as indicated in the declaration filed 22 July 2003.
-Additionally, "Page 2 of 2" of the supplemental sheets of the declaration appears to have been faxed while the other pages do not appear to have been faxed. This suggests that not all of the pages of the declaration were associated with each other at the time of execution, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

Application No.: 10/398,329

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), as noted above, a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) has not been provided. Indeed, all of the shortcomings of the declaration filed 22 July 2003 remain and additional shortcomings have been created, as set forth above.

As to item (2), the petition fee has been charged to Deposit Account 05-1060 as per the authorization to charge in the Transmittal Letter filed 04 May 2004.

As to item (3), a grantable petition has not been filed so that any statement regarding a grantable petition would be moot.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 to accept papers as having been filed on 04 May 2004 is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.181 to accept papers as having been filed on 12 May 2004 is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

For the reasons set forth above, the request for status under 37 CFR 1.42 is **REFUSED**.

The application remains abandoned as to the United States of America.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Harry M. Levy
Emrich & Dithmar
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In re Application of	:	
GRUEN et al.	:	DECISION
Application No.: 10/398,329	:	
PCT No.: PCT/US01/31388	:	
Int. Filing Date: 09 October 2001	:	
Priority Date: 09 October 2000	:	
Attorney's Docket No.: ANL 226	:	
For: ELECTRODE AND ELECTRON EMISSION APPLICATIONS FOR N-TYPE DOPED NANOCRYSTALLINE MATERIAL	:	

This decision is supplemental to the decision mailed 22 December 2004. The original papers filed 04 May 2004 have now been matched with the application file. Accordingly, the decision mailed 22 December 2004 is hereby VACATED.

BACKGROUND

On 09 October 2001, applicants filed international application PCT/US01/31388 which claimed a priority date of 09 October 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 April 2002. The thirty-month period for paying the basic national fee in the United States expires at midnight on 09 April 2003.

On 04 April 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 22 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of inventors filed 04 April 2003 was not executed and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 22 July 2003, applicants filed a submission which was accompanied by, *inter alia*, a

declaration of inventors including an indication that inventor Alan R. Kraus is deceased. The submission was treated as a request for status under 37 CFR 1.42.

On 15 September 2003, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision noted that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. A two-month extendable time period was set.

On 12 May 2004, applicants filed a submission including a copy of a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", a copy of a declaration of Julie R. Krauss, a copy of a declaration of inventors, a petition/fee for a five month extension of time, and a copy of a Transmittal Letter dated 04 May 2004 authorizing any additional fees to be charged to Deposit Account 05-1060.

On 19 October 2004, applicants filed a submission including a copy of a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", a copy of a declaration of Julie R. Krauss, a copy of a declaration of inventors, a petition/fee for a five month extension of time, a copy of a Transmittal Letter dated 04 May 2004 authorizing any additional fees to be charged to Deposit Account 05-1060, a copy of a postcard receipt date-stamped 04 May 2004 by the USPTO, and a copy of a postcard receipt date-stamped 12 May 2004 by the USPTO.

On 22 December 2004, a decision was mailed indicating that the papers originally filed 12 May 2004 had been matched with the application file but that applicants' petition under 37 CFR 1.181 to accept papers as having been filed on 04 May 2004 was dismissed without prejudice. The decision also indicated that the petition under 37 CFR 1.137(b) was dismissed without prejudice because both the declaration of inventors filed 12 May 2004 and the declaration of inventors filed 19 October 2004 (the declarations were different) failed to comply with 37 CFR 1.497(a)-(b) and that consequently the application was abandoned as to the United States of America.

DISCUSSION

The original papers filed 04 May 2004 have now been matched with the application file. Accordingly, the declarations of inventors filed 12 May 2004 and 19 October 2004 as substitutes for the declaration filed 04 May 2004 are no longer at issue. As noted above, the decision mailed 22 December 2004 has been vacated.

The declaration of inventors filed 04 May 2004 fails to comply with 37 CFR 1.497(a)-(b). -The declaration is not signed by a representative signing on behalf of deceased inventor Alan R. Krauss. Note that any declaration signed by a legal representative of Alan R. Krauss must include the residence, mailing address and citizenship of the person(s) signing on behalf of the

deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3)).
-This declaration also fails to comply with 37 CFR 1.497(a)-(b) since the citizenship of inventor Ding Ming is not indicated in the declaration.
-This declaration also fails to comply with 37 CFR 1.497(a)-(b) because it does not accurately indicate the specification which is being executed. The international filing date for PCT/US01/31388 is 09 October 2001 rather than 10 October 2001 as indicated in the declaration filed 22 July 2003.
-Each page of the declaration appears very different from each of the other pages, e.g. in reproduction quality, in whether or not it appears to have been faxed, etc. This suggests that each page of the declaration was not associated with the other pages at the time of execution, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), as noted above, a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) has not been provided.

As to item (2), the petition fee has been charged to Deposit Account 05-1060 as per the authorization to charge in the Transmittal Letter filed 04 May 2004.

As to item (3), a grantable petition has not been filed so that any statement regarding a grantable petition would be moot.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

For the reasons set forth above, the request for status under 37 CFR 1.42 is **REFUSED**.

The application remains abandoned as to the United States of America.

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,

Application No.: 10/398,329

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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21 JUL 2005

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In re Application of	:	
GRUEN et al	:	
Application No.: 10/398,329	:	
PCT No.: PCT/US01/31388	:	
Int. Filing Date: 09 October 2001	:	DECISION
Priority Date: 09 October 2000	:	
Atty. Docket No.: ANL 226	:	
For: ELECTRODE AND ELECTRON EMISSION APPLICATIONS ...	:	

This is a decision on applicants' "PETITION...UNDER 37 CFR 1.137(b)" and the declaration of the inventors which has been treated as a renewed request for acceptance of the application under 37 CFR 1.42, both filed in the U.S. Patent and Trademark Office (USPTO) on 05 April 2005.

BACKGROUND

On 02 February 2005, this Office mailed a decision dismissing applicants' previous petition under 37 CFR 1.137(b) and request under 37 CFR 1.42 for acceptance of the application as filed on behalf of a deceased inventor. The petition and request were dismissed on the grounds that applicants still had not submitted a declaration of the inventors in compliance with 37 CFR 1.42 and 1.497.

On 05 April 2005, applicants filed the present renewed petition and request which was accompanied by, *inter alia*, two declarations of the inventors.

DISCUSSION

A review of the application file reveals that the declaration submitted with the present petition has now been executed by Julie R. Krauss as the Legal Representative of the deceased co-inventor, Alan R. Krauss. However, a further review of the declarations reveals that they are still not acceptable for the following reasons:

1) Due to the poor quality of the fax transmission, the declaration executed by inventors Gruen, Auciello and Ding and by Julie Krauss is illegible in portions; and
2) Neither declaration identifies nor is executed by inventor Greg Swain.

Therefore, the declarations cannot be said to be in compliance with 37 CFR 1.42 or 1.497.

Further, in that applicants still have not provided an acceptable declaration as required, the requirement under 37 CFR 1.137(b) for submission of the required reply still cannot be said to have been satisfied, and as such the petition to revive the application cannot be granted at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.42 and the petition under 37 CFR 1.137(b) are **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 "Second Renewed Petition Under 37 CFR 1,137(b)". No additional petition fee is required.

A proper response must include a declaration of the inventors in compliance with 37 CFR 1.42 and 1.497.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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Office of PCT Legal Administration

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#12

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06 JAN 2006

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125 South Wacker Drive
Suite 2080
Chicago, IL 60606

In re Application of	:	
GRUEN et al	:	
Application No.: 10/398,329	:	
PCT No.: PCT/US01/31388	:	
Int. Filing Date: 09 October 2001	:	DECISION
Priority Date: 09 October 2000	:	
Atty. Docket No.: ANL 226	:	
For: ELECTRODE AND ELECTRON EMISSION APPLICATIONS ...	:	

This is a decision on applicants' "SECOND RENEWED PETITION UNDER 37 CFR 1.137(b)," which includes a renewed request for acceptance of the application under 37 CFR 1.42, filed in the U.S. Patent and Trademark Office (USPTO) on 17 October 2005. The renewed petition was accompanied by, *inter alia*, a declaration of the inventors. The petition under 37 CFR 1.137(b) and the request under 37 CFR 1.42 are **GRANTED** as discussed below.

A review of the application file reveals that with the filing of the present declaration in compliance with 37 CFR 1.42 and 1.497, applicants have now satisfied the requirements of 37 CFR 1.137(b) and 35 U.S.C. 371 for entry into the national stage in the United States.

The application has an international filing date of 09 October 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **17 October 2005**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

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25 JUN 2004

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In re Application of :
TEUTSCH, Thorsten *et al* :
U.S. Application No.: 10/398,336 :
PCT No.: PCT/DE01/03833 :
Int. Filing Date: 05 October 2001 : **DECISION**
Priority Date: 06 October 2000 :
Attorney's Docket No.: 3241-90 :
For: METHODS FOR ABLATING POINTS OF :
CONTACT (DEBUMPING)OF SCREENING :
FOR PARKINSON'S DISEASE :

This is a decision on the papers filed via facsimile on 24 June 2004 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 11 July 2003, applicants purportedly filed an executed declaration and surcharge fee.

On 11 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a complete English translation, an oath/declaration in compliance with 37 CFR 1.497(a) and (b), a processing fee pursuant to 37 CFR 1.492(f) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(e) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 15 December 2003, applicants submitted a response which was accompanied by, *inter alia*, a two-month extension request and $210.00 extension fee and an English translation with a $130.00 processing fee. Applicants indicated that an executed declaration was previously submitted.

On 24 June 2004, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the documents purportedly filed on 11 July 2003 and a date-stamped postcard receipt for the 11 July 2003.

DISCUSSION

A review of the above-captioned application reveals that the declaration purportedly filed 11 July 2003 was not located in the file. However, USPTO financial

records indicate that the surcharge fee of $130.00 and an assignment fee of $40.00 was received on 11 July 2003.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents submitted 11 July 2003. The filing receipt records that a "Declaration (signed)" was received in the USPTO. The filing receipt is stamped "OIPE JUL 11 2003" across its face. The U.S. application number, and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that a declaration was originally received by the USPTO on 11 July 2003.

DECISION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The declaration is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 October 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 December 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

17 APR 2003

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#3

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Attn: Legal-Manufacturing
Kinetic Concepts, Inc.
P.O. Box 659508
San Antonio, TX 78265-9508

In re Application of HEATON et al	:	
U.S. Application No.: 10/398,338	:	DECISION ON PETITION
Int. Application No.: PCT/GB99/03688	:	
Int. Filing Date: 05 November 1999	:	UNDER 37 CFR 1.137(b)
Priority Date: 06 November 1998	:	
Attorney Docket No.: COO.440	:	
For: PATIENT COOLING ENCLOSURE	:	

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 25 March 2003.

BACKGROUND

On 05 November 1999, applicant filed international application PCT/GB99/03688, which claimed priority of an earlier United Kingdom application filed 06 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 18 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 05 May 2001.

International application PCT/GB99/03688 became abandoned as to the United States for failure to timely pay the basic national fee.

On 25 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 reply 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 has an international filing date of 05 November 1999 and a date under 35 U.S.C. 371(c) of 25 March 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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JAN 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Manfred Thonhauser, et al.	:	
Application No. 10/398,348	:	DECISION GRANTING PETITION
Filed: April 4, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 085523-0381115	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 2010 and supplemented on January 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application	:	
Siegfried Doujak	:	
Application No. 10/398,367	:	DECISION ON APPLICATION
Filed: September 5, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 09155.0001-00000	:	

This is a decision on the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed November 15, 2006. Applicant asserts that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of four hundred thirty-two (432) days should be corrected to one hundred three (103) 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 **one hundred three (103) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 2, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred thirty-two (432) days.

The Office initially determined a patent term adjustment of four hundred thirty-two (432) days based on an adjustment for PTO delay of four hundred eighty-four (484) days pursuant to 35 U.S.C. 154(b)(1)(a)(i) and 37 C.F.R. § 1.703(a)(1), reduced by thirty-one (31) days of applicant delay pursuant to 37 C.F.R. § 1.704(b) and twenty-one (21) days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(8). The adjustment of four hundred eighty-four (484) days is at issue.

The adjustment of four hundred eighty-four (484) days has been found to be incorrect. The application was filed on September 5, 2003. The Office did not mail its first action until May 3, 2005. Accordingly, pursuant to 37 C.F.R. § 1.703(a)(1), one hundred seventy-nine (179) days of PTO delay should have been assessed, not four hundred eighty-four (484) days.

In addition, applicant should have been assessed additional delay pursuant to 37 C.F.R. § 1.704(b). The Office mailed a final Office action on December 28, 2005. Applicant did not file a proper reply until he filed an RCE on April 21, 2006. Accordingly, applicant should have been assessed twenty-four (24) days of delay under § 1.704(b).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred three (103 days** (179 days of PTO delay, reduced by 76 (31+24+21) days of applicant delay), subject to any terminal disclaimer.

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

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Monday
Date: 1/29/2007

PALM INTRANET

Time: 17:35:24

PTA Calculations for Application: 10/398367			
Application Filing Date:	09/05/2003	PTO Delay (PTO):	484
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	52
Post-Issue Petitions:	0	Total PTA (days):	103
PTO Delay Adjustment:	-329		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
52	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		484	
51	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	179		
44	10/02/2006	MAIL NOTICE OF ALLOWANCE			
43	09/27/2006	ISSUE REVISION COMPLETED			
42	09/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	09/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
39	09/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
38	09/22/2006	NOTICE OF ALLOWABILITY			
37	09/19/2006	DATE FORWARDED TO EXAMINER			
36	09/11/2006	RESPONSE AFTER NON-FINAL ACTION		31	34
35	09/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	05/11/2006	MAIL NON-FINAL REJECTION			
33	05/10/2006	NON-FINAL REJECTION			
32	04/26/2006	DATE FORWARDED TO EXAMINER			
31	04/21/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
30	04/26/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
29	04/21/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	04/21/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
27	03/30/2006	MAIL ADVISORY ACTION (PTOL - 303)			
26	03/27/2006	ADVISORY ACTION (PTOL-303)			
25	03/24/2006	DATE FORWARDED TO EXAMINER			

24	03/21/2006	AMENDMENT AFTER FINAL REJECTION			
23	12/28/2005	MAIL FINAL REJECTION (PTOL - 326)			
22	12/23/2005	FINAL REJECTION			
21	10/18/2005	DATE FORWARDED TO EXAMINER			
20	09/27/2005	RESPONSE AFTER NON-FINAL ACTION			
19	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		21	14
18	07/06/2005	MAIL NON-FINAL REJECTION			
17	07/01/2005	NON-FINAL REJECTION			
16	06/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	06/17/2005	DATE FORWARDED TO EXAMINER			
14	06/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
13	05/03/2005	MAIL RESTRICTION REQUIREMENT	484		3
12	04/29/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
11	05/18/2004	REFERENCE CAPTURE ON IDS			
10	05/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	10/31/2003	CLEARED BY OIPE CSR			
8	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	09/05/2003	371 COMPLETION DATE			
6	09/23/2003	APPLICATION DISPATCHED FROM OIPE			
5	09/23/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	09/05/2003	ADDITIONAL APPLICATION FILING FEES			
3	09/05/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Daejeon metropolitan 302-7-01
KR KOREA, REPUBLIC OF

In re Application of	:	
CHOI et al.	:	
Application No.: 10/398,369	:	DECISION ON
PCT No.: PCT/KR01/01670	:	
Int. Filing Date: 05 October 2001	:	PETITION UNDER
Priority Date: 05 October 2000	:	
Attorney Docket No.: 44902	:	37 CFR 1.137(b)
For: APPARATUS AND METHOD FOR DETECTING TRANSMITTING RATE OF TURBO DECODER	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 11 August 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 October 2001, applicants filed international application PCT/KR01/01670, which designated the United States and claimed a priority date of 05 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 at midnight on 07 April 2003 (05 April 2003 being a Saturday).

On 04 April 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 11 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 11 August 2004, applicants submitted the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR

1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

The extendable period for reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 11 August 2003 expired at midnight on 11 March 2004. Thus, the above-identified application was abandoned as of midnight 11 March 2004.

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a declaration of inventors on 11 August 2004.

As to item (2), applicant submitted the petition fee on 11 August 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 11 August 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application .

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, N.W.
Suite 800
Washington, DC 20006-1021

In re Application of: Katta et al.
Application No. 10/398,377
Filed: April 4, 2003
For: RING NETWORK AND DATA TRANSMITTER

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed November 24, 2003 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, **or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status**;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

With respect to section (b) above, the petition filed November 24, 2003 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in a telephone conversation with applicant's attorney, Thomas Robbins (Reg. No. 43,369) on July 20, 2004, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed November 24, 2003 and the oral agreement on July 20, 2004 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

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.

7/21/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

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WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Application of :
Noboru Katta et al :
Application No. 10/398,377 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. 2003-0483 A :

This is a decision on the petition under 37 CFR 1.313(c)), filed July 19, 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 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 2155 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).