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IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor	Lothar SEBASTIAN et al
Patent No.	7,458,317
Issued	2 December 2008
For	CONTINUOUS BELT-TYPE BOARD PRESS

Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

In the above-mentioned Letters Patent, the name of the assignee is incorrect.

The Assignee name should be show as:

- - Siempelkamp Maschinen - und Anlagenbau GmbH & Co. KG - -

It is therefore respectfully requested that the Letters Patent be corrected, and a new Letters Patent be issued. Please charge by the enclosed PTO-2038 to account 18-2025 of the undersigned, since the originally submitted papers were incorrect.

01/16/2009 SSESHE1 00000035 7458317

01 FC:1811 100.00 OP

Certificate
JAN 22 2009
of Correction

If this request is granted, please forward it to the Certificates of Correction Branch, for issuance of a Certificate of Correction.

Respectfully submitted,
Karl F. Ross P.C.

By: Andrew Wilford, 26,597
Attorney for Applicant

29 December 2008
5683 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099

pf
Enclosure: PTO SB/44 (Also PTO form 1050) Certificate of Correction
PTO 2038

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PTO/SB/44

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 7,458,317
DATED : December 2, 2008
INVENTORS: Lothar SEBASTIAN et al

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

The full, correct name of the Assignee is:

- - Siempelkamp Maschinen - und Anlagenbau GMBH & CO. KG - -

Andrew Wilford, 26,597

29 December 2008

Mailing address of sender:

Patent No. 7,458,317

The Firm of Karl F. Ross P.C.
Customer Number 535
5683 Riverdale Avenue Box 900
Riverdale (Bronx), NY 10471-0900

17 MAY 2004

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of WHITE et al. Application No.: 10/402,295 Filing Date: 28 March 2003 Attorney Docket No.: 04754-00047 For: INFLATABLE OBJECT AND METHOD FOR INFLATING	: : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of applicant's petition to revive under 37 CFR 1.137(b) international application no. PCT/CA01/01178 filed on 28 March 2003 and resent via facsimile on 29 September 2003.

On 21 August 2001, applicant filed international application PCT/CA01/01173, which claimed priority of two earlier U. S. provisional applications filed 21 August 2000 and 09 April 2001. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 21 February 2003. Thereafter, the application was abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 28 March 2003, applicant filed a petition to revive under 37 CFR 1.137(b) which was accompanied by a Utility Patent Application Transmittal requesting filing the application under Rule 1.53(b). The application was assigned serial no. 10/402,295 and treated as a filing under 35 U.S.C. 111(a).

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

Applicant has satisfied items (2) and (3) above. However, with regard to Item (1), in the instant application, the proper reply has not been provided. The proper reply to a petition under 37 CFR 1.137(b) to revive an international application that became abandoned under 37 CFR 1.495 for failure to timely pay the basic national fee is either: the payment of the basic national fee; or the filing of a continuing application. Applicant has not provided either reply and thus, the petition under 37 CFR 1.137(b) cannot be granted at this time.

Applicant requests revival of international application PCT/CA01/01173, as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present utility application under 35 U.S.C. 111(a) is not the appropriate reply under 37 CFR 1.137(b) as the instant application does not claim benefit to the international application in accordance with 37 CFR 1.78 and accordingly, is not a continuing application. See 37 CFR 1.78(a)(3) for procedures to add an unintentionally delayed benefit claim.

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CONCLUSION

Applicant's petition to revive international application no. PCT/CA01/01173 under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE**.

Applicant has TWO (2) MONTHS from the mail date of this decision in which to furnish the proper reply as indicated above. Extensions of time are available.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 703-306-5467
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/402,323	03/27/2003	Thomas K. Toyama	NN1.P01	1506

21792 7590 04/20/2004

STRATTON BALLEW
213 S 12TH AVE
YAKIMA, WA 98902

EXAMINER
MCCORMICK EWOLDT, SUSAN BETH

ART UNIT	PAPER NUMBER
1661	

DATE MAILED: 04/20/2004

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

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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ALEXANDRIA, VA 22313-1450
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STRATTON BALLEW
213 S 12TH AVE
YAKIMA WA 98902

In re Application of	:
Thomas Toyama	:
Serial No.: 10/402,323	: SUSPENSION OF ACTION
Filed: March 27, 2003	:
Attorney Docket No.: NN1.P01	:

This letter is in response to the petition under 37 CFR 1.103(a), received March 3, 2004, seeking suspension of action in this application for a period of six months.

A review of the file history shows that applicants responded to the last Office action on March 3, 2004, and that the response is a complete response insofar as is possible.

Applicants seek suspension of action due to requirement of the examiner for a fuller description of botanical information on the plant characteristics which are unavailable due to dormancy.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants' petition is **GRANTED**. Action on this application is suspended for six months from the date of mailing of this decision. At the end of the period of suspension, or earlier if desired, applicant is requested to contact the examiner in writing or by facsimile transmission requesting resumption of prosecution in this application.

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 the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

O'KEEFE, EGAN & PETERMAN, L.L.P.
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

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OFFICE OF PETITIONS

In re Application of :
Hubbard, Mandyam, Venkatramani, Adiga, Anderson, Hewgill and Lawson :
Application No.: 10/402,331 : DECISION ACCORDING
Filed: March 28, 2003 : RULE 47(a) STATUS
Attorney Docket No: UNTD:026 :
For: MASSIVELY DISTRIBUTED PROCESSING SYSTEM ARCHITECTURE, SCHEDULING, UNIQUE DEVICE IDENTIFICATION AND ASSOCIATED METHODS :

This is in response to the petition under 37 CFR 1.47(a), filed December 5, 2003 (certificate of mailing dated December 2, 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 28, 2003, and was not accompanied by an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on July 2, 2003, requiring an properly executed declaration, $130.00 surcharge, and filing and claim fees. The notice allowed an extendable period for reply of two months from its mailing date. On December 5, 2003, the instant petition was filed along with a request for an extension of time within the third month, and a declaration.

Petitioner has shown that inventor Anderson has 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 regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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David P. Anderson
1627 Blake Street
Berkeley, CA 94703

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OFFICE OF PETITIONS

LETTER

In re Application of
Hubbard, Mandyman, Venkatramani, Adiga, Anderson, Hewgill, and Lawson
Application No. 10/402,331
Filed: March 28, 2003
Attorney Docket Number: UNTD:026
For: MASSIVELY DISTRIBUTED PROCESSING SYSTEM ARCHITECTURE, SCHEDULING, UNIQUE DEVICE IDENTIFICATION AND ASSOCIATED METHODS

Dear Mr. Anderson:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

O'Keefe, Egan & Peterman, LLP
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

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Paper No. 5

BUCKLEY, MASCHOFF, TALWALKAR, & ALLISON
5 ELM STREET
NEW CANAAN CT 06840

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OFFICE OF PETITIONS

In re Application of
Padhye
Application No. 10/402,354
Filed: March 28, 2003
Attorney Docket No. P14569
For: DELAYING AN EXCHANGE OF INFORMATION PACKETS ASSOCIATED WITH AN EMBEDDED CONTROLLER

: DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed September 10, 2003 (certificate of mailing date September 8, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Shailendra Padhye, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition, signed by Attorney Patrick J. Buckley, establishes that the inventor was mailed and received the application papers, including the specification, claims and drawings, but the inventor refused to sign the declaration during a telephone conversation with Attorney Buckley on August 7, 2003. In addition, petitioner has shown that Intel Corporation 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 Intel Corporation. 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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
RADIONOV et al.	:	
Application No. 10/402,368	:	ON APPLICATION FOR
Filed: March 27, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 019927-002800US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed March 6, 2009, which is properly treated under 37 CFR 1.705(b). Applicant requests that the determination of patent term adjustment be corrected to 1099 days. 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 three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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

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

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

It is noted that a Request for Continued Examination (RCE) was filed in this application on February 4, 2008.

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

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

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

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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

In re Patent No. 7,526,019	:	
RADIONOV et al.	:	
Issue Date: April 28, 2009	:	DECISION ON REQUEST FOR
Application No. 10/402,368	:	RECONSIDERATION OF
Filed: March 27, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 019927-002800US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed June 15, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from five hundred twelve (512) days to one thousand ninety-nine (1,099) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 512 days.

The above-identified application was filed on March 27, 2003. On February 4, 2008[1], a request for continued examination (RCE) was filed. On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,526,019 with a revised patent term adjustment of 512 days. The Office determined that the 679

[1] The Office notes that the PALM PTA Calculations incorrectly indicates that the RCE was filed on February 19, 2008. Nevertheless, the Image File Wrapper for this application correctly shows the RCE was filed on February 4, 2009. The Office will use the correct date of February 4, 2008, in determining patent term adjustment.

days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[2] and 37 CFR 1.702(b),[3] overlap with the 761 days of Office delay,[4] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[5] accorded prior to the filing of the request for continued examination. As such, the Office allowed entry of only the period of adjustment of 761 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 249 days of applicant delay, the patent issued with a revised patent term adjustment of 512 days.

On June 15, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 1,099 days under the court's interpretation of the overlap

---

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. 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 issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[3] As of the filing of the RCE on February 4, 2008, the application was pending three years and 679 days.

[4] A nonfinal Office action was mailed on June 27, 2006, 14 months and 761 days after the application was filed on March 27, 2003.

[5] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. 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:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, periods of delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap only if they occur on the same calendar day or days. Patentees state that the total period of Office delay is the sum of the period of Three Years Delay (679 days) and the period of Examination Delay (761 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 92 days as they occur on the same calendar days in both period. Patentees assert that they are entitled to "1099 days of patent term adjustment, ((761 days ("A delay") +679 days ("B delay")-92 days Overlapping Days)-249 days ("applicant delay"))."

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

---

[6] Likewise, 37 CFR 1.703(f) provides that:

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on March 27, 2003, and ending on the date of filing of a request for continued examination on February 4, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 761 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 679 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 679 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 761 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 679 days and the 761 days is neither permitted nor warranted. 761 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 679 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 512 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on March 6, 2009. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

Mail Date: 04/21/2010

Applicant	: Eric T. Heggs	: DECISION ON REQUEST FOR
Patent Number	: 7651866	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/402,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ESS TECHNOLOGY, INC
C/O HAYNES BEFFEL & WOLFELD, LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

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JUL 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 6,822,516	:	
Issue Date: November 23, 2004	:	
Application No. 10/402,391	:	NOTICE
Filed: March 27, 2003	:	
Patentee(s): Andrew Martin Mallinson	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on October 16, 2007. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert S. Kieval et al.	:	
Application No. 10/402,393	:	DECISION ON PETITION
Filed: March 27, 2003	:	TO WITHDRAW
Attorney Docket No. 021433-000420US	:	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 12, 2009.

The request is **APPROVED**.

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

The request was signed by James M. Heslin on behalf of all attorneys/agents associated with customer number 20350. All attorneys/agents associated with customer number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the assignee at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney 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: CVRX, Inc.
10900 73rd Avenue North
Suite 116
Maple Grove, MN 55369

cc: Patterson, Thuente, Skaar
& Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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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
10/402,393	03/27/2003	Robert S. Kieval	021433-000420US

CONFIRMATION NO. 2764

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000034977717

Date Mailed: 03/12/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2009.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Robert S. Kieval	: DECISION ON REQUEST FOR
Patent Number	: 7616997	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/402,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **959** 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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CHARLES G. NESSLER
P.O. BOX H
CHESTER, CT 06412

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Krueger et al	:	
Application No. 10/402,414	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket Number:	:	
2156	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application, filed December 6, 2005. The petition is properly treated under 37 CFR 1.137(b).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed July 6, 2005. The Notices set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 7, 2005. A Notice of Abandonment was mailed on November 23, 2005.

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

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

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

Derek L. Woods
Attorny
Office of Petitions

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CHARLES G. NESSLER
P.O. BOX H
CHESTER, CT 06412

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APR 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Kruger et al.	:	
Application No. 10/402,414	:	
Filed: April 19, 2004	:	ON PETITION
Attorney Docket Number:	:	
2156	:	

This decision is in response to the Petition Under 37 CFR 1.182 to expedite the handling of a petition, filed March 28, 2006.

Applicant filed concurrently herewith a petition to correct the spelling of an inventor's name. Applicant herein requests expedited treatment of the petition to correct the inventor's name.

The petition is **granted**.

A decision on the petition to correct the inventor's name filed concurrently herewith is being mailed concurrently with this decision.

Applicant is advised that the fee for a petition under 37 CFR 1.182 is $400.00 (effective December 8, 2004). Applicant's deposit account has been charged $400.00 as authorized in the instant petition.

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

Derek L. Woods
Attorney
Office of Petitions

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APR 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Kruger et al.	:	
Application No. 10/402,414	:	
Filed: April 19, 2004	:	ON PETITION
Attorney Docket Number:	:	
2156	:	

This decision is in response to the Petition Under 37 CFR 1.182 for Correction of the Spelling of Applicant's Name, filed March 28, 2006.

Applicant files the instant petition to change the name of inventor Kurt J. Krueger to Kurt J. Kruger. Applicant avers that the name Kurt J. Krueger was originally listed in error. Applicant is strongly advised to file an Application Data Sheet ("ADS"). See 1281 OG 54, 13 April 2004.

In view of the error in transliteration or typing, the petition is granted.

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

Derek L. Woods
Attorney
Office of Petitions

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Mailed: 5/4/04

BC
Paper Number: 050404

In re application of	:	
Robert M. Witter	:	DECISION ON
Serial No. 10/402,441	:	PETITION
Filed: March 27, 2003	:	
For: DUST COLLECTION SYSTEM	:	

This is a Decision of the petition filed on January 28, 2004 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

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

Accordingly the petition is **GRANTED.**

Blaine R. Copenheaver, Jr.
SPE, Group Art Unit 1724
Chemical and Materials Engineering

Bernhard P. Molldrem, Jr.
Law Office of Bernhard P. Molldrem
2nd Floor, Monroe Building
333 East Onondaga Street
Syracuse, NY 13202

Pet. Dec.

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Mailed: MAY 18 2004 CST

In re application of	:	
Robert M. Witter	:	
Serial No. 10/402,441	:	DECISION ON
Filed: March 27, 2003	:	PETITION
For: DUST COLLECTION SYSTEM	:	

This is a decision on the petition filed January 30, 2004 requesting that the above-identified application be granted Special Status under sections 708.02 (V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02(V) and (VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Bernhard P. Molldrem, Jr.
333 East Onondaga Street
Syracuse NY 13202

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KENYON & KENYON LLP
1500 K STREET N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Balaji Govindan	: DECISION ON REQUEST FOR
Patent Number	: 7577912	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/402,443	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1253** 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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ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

COPY MAILED

OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of	:
Leonard J. DiCarlo	:
Application No. 10/402,457	: DECISION GRANTING PETITION
Filed: March 28, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LINI 5714	:

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

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

This matter is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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FEB 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Muller et al.	:	
Application No. 10/402,518	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. 543-94-001 (HOOO-1-1047)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 19, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 20, 2005. A Notice of Abandonment was mailed March 27, 2006.

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

It is noted that an amendment was included with the petition filed on December 9, 2009. However, the amendment is considered non-responsive since the amendment does not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for

consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2).

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.

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.

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 Alicia Kelley at (571) 272-6059.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: MARK LORBIECKI
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE, SUITE 4800
SEATTLE, WA 98104

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/402,518	MULLER ET AL.	
	Examiner	Art Unit	
	Brent A. Swarthout	2612	

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

THE REPLY FILED 09 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-13*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Brent A Swarthout/
Primary Examiner, Art Unit 2612

Continuation of 3. NOTE: proposed amendments were already entered in a previous amendment.

Continuation of 11. does NOT place the application in condition for allowance because: Claims are rejected for the same reasons earlier presented in the Final Office action mailed 5-19-05.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ____

DAVID & BUJOLD PLLC
500 N COMMERCIAL STREET, FOURTH FLOOR
MANCHESTER, NH 03101-1151

COPY MAILED

AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of Lynn LeRoy Falkner et al Application No. 10/402,583 Filed: March 27, 2003 Attorney Docket No. 22088(2)DIV	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions and association of the petition, RCE and decision on petition with the file, the file will be forwarded to Technology Center AU 1734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement stated to have been submitted on August 13, 2004.

Frances Hicks

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Romani et al.	:	
Application No.: 10/402587	:	DECISION ON
Filing or 371(c) Date: 03/28/2003	:	PETITION
Attorney Docket Number: 284359-00019	:	

This is a decision in response to the "Petition Under 37 C.F.R. 1.181," filed April 22, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed December 24, 2003. The Office communication set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned February 24, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment

The present petition

Applicant files the present petition and asserts that a timely reply to the Notice on March 23, 2004including a one (1) month extension of time request and authorization to charge additional fees. In support of this assertion, Applicant provides a copy of the Amendment Transmittal form, and a copy of the reply. The Amendment Transmittal form includes a Certificate of Mailing executed by then attorney of record Michael R. Schwartz, attesting to the mailing of the reply in accordance with 37 CFR 1.9(a) on March 23, 2004.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, states:

(b) In the event that correspondence is considered timely filed by being mailed or

transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed. (Emphasis supplied).

37 CFR 1.8(b)

Applicant has failed to comply with 37 CFR 1.8(b)(3). In this regard, a statement from Michael R. Schwartz, which attests on a personal knowledge basis to the previous timely mailing or transmission, is required. The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary statement.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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600 GRANT STREET
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PITTSBURGH PA 15219

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SEP 11 2008

In re Application of	:	
Romani et al.	:	
Application No.: 10/402587	:	DECISION ON
Filing or 371(c) Date: 03/28/2003	:	PETITION
Attorney Docket Number: 284359-00019	:	

This is a decision in response to the "Request for Reconsideration of Dismissal of Petition," filed August 18, 2008, requesting reconsideration of the dismissal of the petition filed under 37 CFR 1.181.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed December 24, 2003. The Office communication set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned February 24, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment

Applicant filed a petition on April 22, 2008 wherein Applicant asserted that a timely reply to the Notice on March 23, 2004, including a one (1) month extension of time request and authorization to charge additional fees, was filed using the certificate of mailing procedure set forth in 37 CFR 1.8. In support of this assertion, Applicant provides a copy of the Amendment Transmittal form, and a copy of the reply. The Amendment Transmittal form included a Certificate of Mailing executed by then attorney of record Michael R. Schwartz, attesting to the mailing of the reply in accordance with 37 CFR 1.8(a) on March 23, 2004. No statement from Attorney Michael R. Schwartz, attesting to the timely transmission of the reply, was provided.

The petition was dismissed in a Decision mailed June 30, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.8.

The present request for reconsideration

Applicant files the present request for reconsideration and includes a statement from Attorney Michael R. Schwartz, attesting to the timely transmission of the reply on March 23, 2004.

Applicable Law, Rules and MPEP

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

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), the
> correspondence will be considered timely if the party who forwarded such correspondence:
> (1)Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2)Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3)Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3679 for processing of the Reply, and for continued processing/examination in due course.

Telephone inquiries concerning this matter 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
www.uspto.gov

MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 08/02/2010

Applicant	: Dimitrios Stiliadis	: DECISION ON REQUEST FOR
Patent Number	: 7649882	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/402,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1287** 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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191 N. WACKER DRIVE
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CHICAGO,IL 60606-1615

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:
Ralph L. Barnett, et al.	:DECISION DISMISSING PETITION
Application No. 10/402,629	:UNDER 37 CFR 1.137(b)
Filed: March 28, 2003	:
Attorney Docket No. 4004006.0019	:

This is a decision on the petition, filed December 27, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on March 28, 2003, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on September 29, 1999, which date is prior to the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on March 28, 2003, and the corresponding foreign application was filed on September 29, 1999. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under the multilateral international agreement. The provisions of 35 U.S.C. § 122(b)(2)(B)(iii) only provide for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above and since this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(b) is inappropriate and, therefore, must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of May 19, 2005 accompanies this decision.

The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See*

35 U.S.C. § 41(c)(7). Accordingly, the petition fee of $750 assessed to petitioner's deposit account on December 27, 2004 will not be refunded.

The file is being forwarded to the Office of Publication for appropriate consideration of the Petition for Express Abandonment Under 37 CFR 1.138(c) also filed on July 30, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 1800
CHICAGO,IL 60606-1615

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Ralph L. Barnett, et al.	:	
Application No. 10/402,629	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. 4004006.0019	:	

The above-identified application has been referred to the Office of Petitions for consideration of the decision mailed February 9, 2005 under 37 CFR 1.137(b).

A review of the record discloses that no request for express abandonment was filed on July 30, 2003 in this application. Accordingly, page 3 of the decision mailed February 9, 2005 is modified to the extent that the paragraph which reads "The file is being forwarded to the Office of Publication for appropriate consideration of the Petition for Express Abandonment Under 37 CFR 1.138(c) also filed on July 30, 2003" is deleted.

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

The application is being referred to Technology Center 2856 for further prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 29 2004

BANIAK PINE & GANNON
Suite 1200
150 N. Wacker Drive
Chicago IL 60606

In re Application of	:	
Sherrie E. Ruiz et al	:	
Serial No.: 10/402,635	:	DECISION ON
Filed: March 28, 2003	:	PETITON TO MAKE SPECIAL
For: Headgear Apparatus	:	

This is in response to applicants' petition filed April 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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

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
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MARK ALLISON BAUMAN
1910 SUNFLOWER COURT
COLLEGE PLACE WA 99324

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Ruiz et al.	:	
Application No. 10/402,635	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. RUZ-101	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The Notice of Acceptance of Power of Attorney is enclosed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney (2 pages)

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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PHILLIP H. ALBERT
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO ENBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Madhu Yarlagadda	:	DECISION ON PETITION
Application No. 10/402,637	:	TO WITHDRAW
Filed: March 27, 2003	:	FROM RECORD
Attorney Docket No. 08226/1203349-US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

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

A review of the file record indicates that on March 9, 2006 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Yahoo! Inc.
c/o Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York NY 10008-0770

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Paper No. 4

Renner, Kenner, Greive, Bobak, Taylor & Weber
24500 Center Ridge Road
Suite 280
Westlake, OH 44145

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OFFICE OF PETITIONS

In re Application of	:	
Debra Steiger, et al.	:	
Application No. 10/402,639	:	DECISION GRANTING
Filed: March 28, 2003	:	PETITION
Attorney Docket No. MBH-0490	:	

This is a decision on the petition filed April 23, 2003, requesting that the above-identified application be accorded a filing date of March 28, 2003, rather than the presently accorded date of March 29, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 28, 2003, pursuant to the requirements of 37 CFR 1.10. Petitioner indicates that the wrong date was entered on the Express Mail receipt. In support petitioner's provides, inter alia, a copy of Express Mail Label No. EL722634596US showing a handwritten "date-in" of "3-29-03" and a copy of the US Postal Service (USPS) Track and Confirm record showing that a package bearing Express Mail Label No. EL722634596US was accepted at WESTLAKE, OH 44145 on March 28, 2003 at 4:41 pm and delivered to the USPTO at 7:44 am on March 31, 2003. The same Express Mail receipt number appears on the original Application Transmittal Letter found in the file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 28, 2003.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of March 28, 2003.** Thereafter, the application file will be forwarded to Technology Center 3671 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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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APR 18 2008

OFFICE OF PETITIONS

In re Application of	:
Eric Yam	:
Application No. 10/402,645	: DECISION GRANTING PETITION
Filed: March 28, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 80398P550	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 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 the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed May 21, 2007, 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 the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

MAILED

MAR 19 2009

OFFICE OF PETITIONS

In re Application of :
Craig H. Rowland, et al. :
Application No.: 10/402,649 : ON PETITION
Filed: March 28, 2003 :
Attorney Docket No.: 062891.0920 :

This is a decision on the petition, filed March 17, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 12, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2434 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

MAILED

AUG 19 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Craig H. Rowland, et al. :
Application No.: 10/402,649 :
Filed: March 28, 2003 :
Attorney Docket No.: 062891.0920 :

This is a decision on the petition, filed August 17, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2434 for further processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SUITE 600
DALLAS, TX 75201-2980

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JAN 22 2010

In re Application of	:	
Craig H. Rowland, et al.	:	
Application No.: 10/402,649	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No.: 062891.0920	:	

This is a decision on the petition, filed January 20, 2010, 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 2, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2434 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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BAKER BOTTS L.L.P.
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DALLAS, TX 75201-2980

In re Application of	:	
Craig H. Rowland, et al.	:	
Application No.: 10/402,649	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No.: 062891.0920	:	

This is a decision on the petition, filed June 11, 2010, 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 29, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2434 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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INFINEON
PO BOX 10395
CHICAGO IL 60610

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Ashley, et al.	:	LETTER REGARDING PTA
Application No. 10/402,654	:	
Filed: March 28, 2003	:	
Atty. Dkt. No.: 10808/103	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed November 21, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed August 27, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 776 days. Applicants indicate that the adjustment of 776 days may extend the term of the patent by too many days..

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 732 days.

Neither the adjustment to date of 783 days nor the reductions to date of seven days are in dispute.

However, review of the record reveals that the Office failed to assess a reduction of 44 days in connection with the supplemental reply filed August 22, 2008. In accordance with 37 CFR 1.704(c)(8), the reduction commenced July 10, 2008, the day after the date that the initial reply was filed, and ended August 22, 2008, the date that the supplemental reply was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 732 days (adjustment totalling 783 less reduction totalling 51 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

Kery Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 3/16/2009

PALM INTRANET

Time: 11:12:38

PTA Calculations for Application: 10/402654			
Application Filing Date:	03/28/2003	PTO Delay (PTO):	783
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	7
Post-Issue Petitions:	0	Total PTA (days):	732
PTO Delay Adjustment:	-44		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
96	03/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		44	
81	09/19/2008	MAIL NOTICE OF ALLOWANCE			
80	08/27/2008	ISSUE REVISION COMPLETED			
79	08/27/2008	DOCUMENT VERIFICATION			
78	09/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
77	09/19/2008	NOTICE OF ALLOWABILITY			
76	09/19/2008	DATE FORWARDED TO EXAMINER			
75	08/22/2008	SUPPLEMENTAL RESPONSE			
64	07/09/2008	NEW OR ADDITIONAL DRAWING FILED			
63	08/20/2008	DATE FORWARDED TO EXAMINER			
62	07/09/2008	RESPONSE AFTER NON-FINAL ACTION			
61	04/09/2008	MAIL NON-FINAL REJECTION			
60	04/07/2008	NON-FINAL REJECTION			
56	04/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
55	03/03/2008	DATE FORWARDED TO EXAMINER			
54	01/30/2008	RESPONSE AFTER NON-FINAL ACTION			
53	10/30/2007	MAIL NON-FINAL REJECTION			
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51	08/24/2007	DATE FORWARDED TO EXAMINER			
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48	05/23/2007	NON-FINAL REJECTION			
46	03/13/2007	DATE FORWARDED TO EXAMINER			
45	03/05/2007	RCE- AF PROCESSED			
44	03/13/2007	DATE FORWARDED TO EXAMINER			

43	03/05/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	03/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	03/05/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	12/08/2006	MAIL FINAL REJECTION (PTOL - 326)			
39	12/07/2006	FINAL REJECTION			
38	07/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	11/02/2006	DATE FORWARDED TO EXAMINER			
36	10/23/2006	RESPONSE AFTER NON-FINAL ACTION		3	33
35	07/26/2006	REFERENCE CAPTURE ON IDS			
34.7	07/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	07/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	07/20/2006	MAIL NON-FINAL REJECTION	783		-1
32	07/19/2006	NON-FINAL REJECTION			
31	06/12/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	06/19/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/19/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/10/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	09/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/29/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	06/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/29/2006	REFERENCE CAPTURE ON IDS			
23.7	03/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/29/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	11/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	08/08/2005	PRELIMINARY AMENDMENT			
19	09/14/2004	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

18.7	09/14/2004	FILED			
18	09/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/29/2004	CORRESPONDENCE ADDRESS CHANGE			
16	06/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	06/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	12/23/2003	MISCELLANEOUS INCOMING LETTER			
13.7	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/12/2003	REFERENCE CAPTURE ON IDS			
9.7	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/14/2003	APPLICATION DISPATCHED FROM OIPE			
7	11/14/2003	APPLICATION IS NOW COMPLETE			
6	09/02/2003	ADDITIONAL APPLICATION FILING FEES		4	4
5	09/02/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	05/29/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	04/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/28/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

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FEB 01 2007
OFFICE OF PETITIONS

In re Application of :
Lee :
Application No. 10/402,668 : ON PETITION
Filed: March 28, 2003 :
Attorney Docket No. 13676 B :

This is a decision on the petition, filed April 11, 2006 (certificate of mailing date April 6, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the October 21, 2004 final Office action. No response being received and no extensions of time being obtained, this application became abandoned on January 22, 2005. A Notice of Abandonment was mailed on April 6, 2005.

Applicant has submitted an amendment in reply to the October 21, 2004 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 21, 2004 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 A.U. 3677 for consideration of the amendment filed on April 11, 2006 (certificate of mailing date April 6, 2006) and supplemented on May 3, 2006 (certificate of mailing date May 1, 2006).

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

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

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

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APR 0 4 2005

Technology Center 2100

In re Application of: NAGATA, et al.
Application No. 10/402,686
Filed: March 28, 2003
For: METHOD FOR DETECTING FAULT BETWEEN STORAGE DEVICES, AND STORAGE DEVICE USED FOR THE SAME

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

This is a response to the petition filed January 24, 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 Reconsideration of Petition is **GRANTED**.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

3/31/05

SDL: 03/21/05

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

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AUG 0 8 2008

In re Application of	:	
ZHANG, Jie et al.	:	
Application No. 10/402,689	:	DECISION ON PETITION
Filed: March 28, 2003	:	TO WITHDRAW
Attorney Docket No. **39753-0003**	:	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 17, 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 Leslie B. Overman on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed July 10, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JIE ZHANG**
4930 POPLAR TERRACE
CAMPBELL, CA 95008

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of
Scheurman
Application No. 10/402,691
Filed: March 28, 2003
Attorney Docket Number: 046301-011100

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of May 17, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 18, 2005. A Notice of Abandonment was mailed on November 28, 2005.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being referred to Art Unit 2631 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

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WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, CA 95113

In re Application of Zhang, et al. Application No. 10/402,727 Filed: March 28, 2000 Docket No.: ORCL-2002-069-01	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed November 28, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed February 17, 2006. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 15, 2006.

Petitioners assert non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof he Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2100 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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David T. Bracken
The Law Offices of Addison H.S. Lau, Inc.
2440 S. Hacienda Blvd., Suite 121
Hacienda Heights, CA 91745

In re Application of :
Gordon Ko :
Application No. 10/402,756 : ON PETITION
Filed: March 28, 2003 :
Attorney Docket No.

This is a decision on the "Petition and Declaration to Accept Supplemental Amendment", filed May 30, 2006, which will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on January 29, 2006, after no response was received to the Notice of Non-Compliant Amendment mailed December 28, 2005, which set a period for reply of one (1) month from its mailing date. No response was received within the allowable period, and the application became abandoned on January 29, 2006.

Petitioner maintains that the Notice of Non-Compliant Amendment was never received because the notice was not addressed properly. It is noted that the correct city and state of the correspondence address is "Hacienda Heights, California", but that the correspondence address of record for the application was improperly entered as "Hacienda, California". A review of the application file reveals that that at least two other notices mailed by the USPTO were addressed "Hacienda, California", but were apparently received by the petitioner. It is regrettable that the correspondence address of record was entered incorrectly. The abandonment of the application cannot be withdrawn solely on the basis of the incorrect address as petitioner has provided no explanation of petitioner's receipt of previous notices although addressed incorrectly. Petitioner will, therefore, need to establish non-receipt of the notice in accordance with the section 711.03(c) of the *Manual of Patent Examining Procedure* (MPEP) that requires the following:

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

Petitioner should file a renewed petition satisfying the aforementioned. There is no fee for a petition under 37 CFR 1.181 to withdraw the holding of abandonment. If petitioner is not able to satisfy these requirements, the application may be revived under 37 CFR 1.137(b).

Petitioner is advised that the correspondence address of record for the above-cited application has been corrected in Office records in accordance with the Power of Attorney filed December 20, 2004.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

David T. Bracken
The Law Offices of Addison H.S. Lau, Inc.
2440 S. Hacienda Blvd., Suite 121
Hacienda Heights, CA 91745

In re Application of

Gordon Ko

Application No. 10/402,756

Filed: March 28, 2003

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 30, 2006.

The petition is **granted**.

This application was held abandoned January 29, 2005, after no reply was received to the Notice of Non-Compliant Amendment mailed December 28, 2005. The notice set forth a period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on January 29, 2006. Petitioner maintains that the notice was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3600, GAU 3654 for further processing including remailing of the Notice of Non-Compliant Amendment and resetting of time period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

RAGHUNATH S. MINISANDRAM
SEAGATE TECHNOLOGY
920 DISC DRIVE, SV 15B1
SCOTTS VALLEY, CA 95067

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Qixu Chen et al :
Application No. 10/402,772 : ON PETITION
Filed: March 28, 2003 :
Attorney Docket No. STL 3148 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 29, 2003.

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

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

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Qixu Chen et al.	:	
Application No. 10/402,772	:	DECISION ON PETITION
Filed: March 28, 2003	:	TO WITHDRAW
Attorney Docket No. STL 3148	:	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 30, 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 customer number 25227 was not used to appoint the attorneys/agents of record. Customer number 50268 has power of attorney.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Raj S. Dave, Ph.D**
Darby & Darby P.C.
1500 K Street, N.W.
Suite 250
Washington DC 20005-1714

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

#6

Jien Wei Huang
P.O. Box 63-298
Taichung,
406
Taiwan

MAILED
FROM DIRECTORS OFFICE

SEP 29 2004

TECHNOLOGY CENTER 3600

In re Application of
Jien Wei Huang
Application No. 10/402,782
Filed: March 28, 2003
For: METALLIC FASTENER HAVING POSITIONING DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on February 20, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on August 15, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 9/23/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100219

DATE : February 19, 2010

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 6922102

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:

/KENNETH A PARKER/
Supervisory Patent Examiner.Art Unit 2815

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/10

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 10402812 Patent No.: 6927101

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

- ☒ **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

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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PPG INDUSTRIES, INC.
ONE PPG PLACE
PITTSBURGH, PA 15272

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SEP 22 2004

OFFICE OF PETITIONS

In re Application of
Lawrence G. Anderson et al
Application No. 10/402,823
Filed: March 28, 2003
Attorney Docket No. 1685c1

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.1.313(b)

This is a decision on the "Petition under 37 C.F.R. 1.313(b)," filed September 14, 2004, requesting that the subject application be withdrawn from issue due to a mistake on the part of the Office.

The petition is **dismissed as inappropriate**.

Petitioner states that the "Communication" mailed to the Office on August 26, 2004 (and received in the USPTO on August 30, 2004) authorized payment of the publication fee only, and not payment of the issue fee. In support, petitioner has supplied a copy of a document entitled "Communication," which authorizes payment of the publication fee only. The petition is also accompanied by a copy of an Issue Fee Transmittal Form PTOL-85(b) submitted concurrently with the "Communication." Petitioner requests that, as payment of the issue fee was not authorized, the Office, at its own initiative, withdraw the application from issue.

Applicable Statutes and Regulations

The issuance and withdrawal from issue of patents are governed by statute and regulation.

35 USC § 131 states:

> The Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor.

35 USC § 151 states in pertinent part:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter. Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

37 CFR 1.313(b) states:

> Once the issue fee has been paid, the Office will not withdraw the application from issue at its own initiative for any reason except:
> (1) A mistake on the part of the Office;
> (2) A violation of § 1.56 or illegality in the application;
> (3) Unpatentability of one or more claims; or
> (4) For interference.

Opinion

37 CFR 1.313(b) applies to those situations where the Office, **at its own initiative**, may withdraw an application from issue, but only in those situations which meet the conditions of 37 CFR 1.313(b). See Sampson v. Dann, 466 F.Supp. 965, 973-74, 201 USPQ 15, 22 (D.D.C. 1978). Therefore, 37 CFR 1.313(b) is inapplicable here since the rule does not provide for withdrawal from issue at the request of, as here, the applicant. That is, the filing of a paper prompting or suggesting that the Office take action *at its own initiative* in an application, is a contradiction in terms.

As to petitioner's assertion that the payment of the issue fee was due to a mistake on the part of the Office, it is noted that the Issue Fee Transmittal Form submitted concurrently with the "Communication" authorizes payment of the issue fee by the placement of an "X" in the box for the issue fee, as well as for the publication fee. Additionally, the form contains an authorization to charge any required fee. It is further noted that the Issue Fee Transmittal Form provides the name of the assignee in the box for printing on the patent.

Petitioner has submitted two conflicting documents–one which indicates authorization for payment of the publication fee only, and another which clearly authorizes payment of the issue fee, as well as the publication fee. Therefore, as the Issue Fee Transmittal Form clearly authorized payment of the issue fee by checking the box therefor and

authorized payment of any fee required, which clearly included the issue fee, no clear error is seen to have occurred on the part of the Office. As a further indication of no clear error, the assignee data was included on the Issue Fee Transmittal Form, from which one would reasonably infer that the patent was to be printed with the assignee data provided. If petitioner did not intend payment of the issue fee, payment of the publication fee could have been effected merely by submitting a transmittal letter therefor. By submitting also a properly completed Issue Fee Transmittal Form with a clear authorization to charge all fees required, was a clear indication to the Office to charge the issue fee and pass the application to issue with the information supplied thereon.

While petitioner requests that the application be withdrawn from issue at the initiative of the Office, petitioner does not request a refund of the issue fee which is stated to have been mistakenly charged. If, as petitioner asserts, the Office improperly charged the issue fee, by refunding the issue fee would now cause the instant application to become abandoned. However, since, as noted above, the issue fee was properly charged as per the authorization contained in the Issue Fee Transmittal Form, the issue fee is not refundable; however, if as explained below, an RCE is filed and the instant petition renewed as one filed under 37 CFR 1.313(c)(2), and the application is again allowed, applicant can request that the issue fee already paid herein be reapplied against the issue fee then due.

In view of the above, the issue fee is considered to have been herein paid and as such this application can only be withdrawn from issue at the request of the applicant under one of the provisions set forth in 37 CFR 1.313(c)(1)-(3). As the instant petition does not currently meet any of those conditions for withdrawal from issue pursuant to 37 CFR 1.313(c), the application will not be withdrawn from issue. It is noted however, that the examiner has refused to consider the IDS submitted after allowance, due to a filing deficiency. Applicant may wish to present papers requesting an RCE, the fee, and as indicated below, renewing the instant petition as one filed under 37 CFR 1.313(c)(2).

If petitioner desires to withdraw this application from issue, the petition under 37 CFR 1.313(c) meeting one of the conditions thereunder must be promptly filed. Petitioner is reminded that 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. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information. *Note* 37 CFR 1.313(d).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 305-4257
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680; after September 27, 2004, at (571)272-3218.

Frances Hicks

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

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of
Lawrence G. Anderson et al
Application No. 10/402,823
Filed: March 28, 2003
Attorney Docket No. 1685C1

DECISION GRANTING PETITIONS

This is a decision on the petitions, filed October 8, 2004, under 37 CFR 1.313(c)(3) to withdraw the instant application from issue and under 37 CFR 1.181 for a refund of the issue fee.

The petitions are granted.

BACKGROUND

Petitioner had previously submitted a petition under 37 CFR 1.313(b), which was dismissed as inappropriate in a decision mailed on September 22, 2004.

The instant petition again requests that the instant application be withdrawn from issue and the issue fee be refunded due to an error on the part of the USPTO. The basis for these requests is grounded on petitioner's contention that the "Communication" mailed to the Office on August 26, 2004 (and received in the USPTO on August 30, 2004) authorized payment of the publication fee only, and not payment of the issue fee. In support, petitioner has again supplied a copy of a document entitled "Communication," which authorized payment of the publication fee only and a copy of the Issue Fee Transmittal Form PTOL-85(b) submitted concurrently with the "Communication." Petitioner asserts that, at the time of mailing of Form PTOL-85(b), the box for the issue fee was not checked (only the box for the publication fee was marked and circled); yet, a copy of the form supplied to petitioner by the Office indicates the box for the issue fee was checked. Petitioner submits in a declaration that "[a]t the time of signature, the issue fee was NOT checked." A further statement is provided by the Docketing Administrator, Rosemarie Grech, stating that "[a]t the time of signature and at the time these documents were deposited in the U.S. mail, the

issue fee box was NOT checked." Petitioner requests that, as payment of the issue fee was not authorized, the issue fee should be refunded and the application withdrawn from issue and expressly abandoned in favor of a continuation application.

To further buttress the argument for refund of the issue fee, petitioner states that the submission of the Issue Fee Transmittal Form PTOL-85(b) is their usual procedure for paying the publication fee and that this procedure has been employed in the past in three other applications which successfully resulted in payment of the publication fee only.

DECISION

Upon reconsideration of all the facts presented, it is clear that petitioner only authorized payment of the publication fee and not payment of the issue fee. Accordingly, as requested, the unauthorized issue fee assessed to petitioner's deposit account will be credited in due course.

Further, as payment of the issue fee was not tendered prior to the due date of September 17, 2004, this application became abandoned by operation of law. Therefore, this application will be withdrawn from issue at the initiative of the Office and processed as an abandoned application.

No fees have been assessed to the petitions for refund and withdrawal from issue in view of Office error.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

Conferree: Brian E. Hearn BEH.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

McDermott, Will & Emery
4370 LaJolla Village Dr., Ste. 700
San Diego, Ca. 92122

COPY MAILED
JUL 12 2004
OFFICE OF PETITIONS

In re Application of
Kristina M. Allen et al.
Application No. 10/402,854
Filed: March 27, 2003
For: HUMAN METABOLIC MODELS AND METHODS
Attorney Docket No: P-GN 5752
Pub. No.: US 2004/0029149 A1
Pub. Date: February 12, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221 (b), filed on April 12, 2004 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication as the first inventor's name is misspelled as "Bornhard Palsson" and not listed as "Bernhard Palsson", as shown on the cover page of the original specification.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The instant request does not identify a material mistake or even a mistake in the publication made by the Office. The inventor's name was correctly printed on the patent application publication in accordance with the name provided on the signed declaration submitted by applicant. The Office does not look at the cover page of the application for the inventor's name or for other inventor information, it looks at the Declaration and Application Data Sheet (ADS) provided by applicant.

Even if the Office misspelled the inventors' name, this would not be a material mistake.

---

[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).

A "material mistake" must affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On October 16, 2003, a Filing Receipt was mailed, which listed the inventor's name as "Bornhard Palsson". To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt by mail or by using the facsimile number (703-746-9195) on the Filing Receipt accompanied by an ADS to correct the error on the Declaration.

Applicant's request for a correct patent application publication on April 12, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta (703)308-812 (voice) or (703)-746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,545,849
Issued: June 9, 2009
Application No. 10/402,878
Filed: March 28, 2003
Attorney Docket No. 16113-0387001

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed July 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from nine hundred seventy-six (976) days to one thousand six hundred forty-five (1645) days.

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

On June 9, 2009, the above-identified application matured into US Patent No. 7,545,849 with a patent term adjustment of 976 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that the PTO's calculation of "B Delay" of 331 days is incorrect and that the correct PTO Delay for issuance beyond filing three years from filing is 1169 days.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (1169 days) and the period of Examination Delay (838 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that only 169 days of the Three Year Delay period overlaps with the period of examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 1838 days, which is the sum of the period of Three Year Delay (1169 days) and the period of Examination Delay (838 days), reduced by the period of overlap (169 days).

As such, Patentees assert entitlement to a patent term adjustment of 1645 days (1169 + 838 reduced by 169 overlap – 193 (applicant delay)).

The Office agrees that as of the issuance of the patent on June 9, 2009, the application was pending three years and 1169 days after its filing date (B Delay). As patentees contend that only 169 days for B Delay overlap with the 838 days for A delay, at issue is whether patentees should accrue 1000 days of patent term adjustment for the Office taking in excess of three years to Issue the patent, as well as 838 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 838 of the 1169 days for over 3 year pendency overlaps with the 838 days accorded during the pendency of the application, and thus, patentees accrued 331 (1169 - 838) days of patent term adjustment pursuant to 37 CFR 1.702(b).

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

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(I)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the

> patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 28, 2003, to the date the patent issued on June 9, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 838 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 1169 days for Office delay in issuing the patent overlap with the 838 days of Office delay. During that time, the issuance of the patent was delayed by 838 days, not 838 + 1169 days. The Office experienced 838 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 838 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 1169 days. The Office did not delay 838 days and then an additional 1169 days. The period of delay of 1169 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 838 days attributable to grounds specified in § 1.702(a)(1) and (a)(4). Entry of both periods is not warranted. 1169 days (not 1169 + 838 days) is determined to be the actual number of days that the issuance of the patent was delayed, considering the 1169 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 331 additional days of patent term adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), for a total Office delay of 1169 days.

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

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

Nancy Johnson for

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/24/06

TO SPE OF : ART UNIT **2876**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/402885 6959865

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

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

Thank You For Your Assistance

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

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

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

Comments:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE **Art Unit**

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

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JUN 2 2 2009

OFFICE OF PETITIONS

In re Patent No. 6,913,942
Issue Date: July 5, 2005
Application No. 10/402,889
Filed: March 28, 2003
Attorney Docket No. P98-US

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 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.

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.

Inquiries related to this communication should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Thomson**
300 Franklin Center
29100 Northwestern Highway
Southfield, MI 48034-1095

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RODNEY M. YOUNG
THOMPSON HINE L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 8801
DAYTON, OH 45401-8801

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Fima et al.	:	DECISION ON PETITION
Application No. 10/402,908	:	TO WITHDRAW
Filed: March 28, 2003	:	FROM RECORD
Attorney Docket No. 065580-003	:	

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 9, 2004.

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

A review of the file record indicates that on February 28, 2005 the power of attorney to Thompson Hine L.L.P. was revoked by the applicants of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Michael Best & Friedrich LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
Chicago IL 60601

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/24/04

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction on Patent No.: 6,758,873 10/402,918

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No. 4

Fish & Richardson P.C.
1425 K Street, NW
11th Floor
Washington, DC 20005-3500

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OCT 1 5 2003

OFFICE OF PETITIONS

In re Application of
Knowles et al.
Application No. 10/402,937
Filed: April 1, 2003
Attorney Docket No. 10765-005002

DECISION GRANTING PETITION

This is a decision on the petition filed July 14, 2003, requesting that the above-identified application be accorded a filing date of April 1, 2003, with Figures 6 and 7 as part of the original disclosure.

On April 1, 2003, applicants filed the above-identified application. On June 18, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of April 1, 2003, and advising applicants that Figures 6 and 7 appeared to have been omitted.

In response, on July 14, 2003, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of 11 sheets of drawings. Additionally, applicants submitted a copy of Figures 6 and 7 with the present petition.

Upon review of the record, Figures 6 and 7, deposited on April 1, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 1, 2003, included Figures 6 and 7, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 6 and 7, was complete on filing and will be granted a filing date of April 1, 2003.

Accordingly, the petition is granted. The requirement for submission of the omitted items was sent in error and is hereby vacated. The $130.00 petition fee will be refunded to Deposit Account No. 06-1050, as requested.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 1, 2003, using Figures 6 and 7 submitted on petition.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of

Shiro Nagaoka

Application No. 10/402,958

Filed: April 1, 2003

Attorney Docket No. Q74827

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on November 1, 2005.

The petition is **granted**.

This application was held abandoned on August 19, 1005, after no reply was received to the Notice of Allowance and Issue Fee Due or the Notice of Allowability both mailed May 18, 2005. The notices set forth statutory periods for reply of three months from their mailing date. The instant petition was filed on November 1, 2005. Petitioner maintains that the notice of May 18, 2005, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2600, GAU 2675 for resetting of the time period for responding to the Notice of Allowance and Issue Fee Due and Notice of Allowability.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Todd P. TAYLOR
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

MAILED

JAN 30 2007

Technology Center 2100

In re Application of:
Stanford W. CRANE, Jr.
Appl. No.: 10/402,962
Filed: April 1, 2003
For: MODULAR ARCHITECTURE FOR HIGH BANDWIDTH COMPUTERS

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on January 25, 2006 to expunge the Information submitted on January 25, 2006.

The petition is **GRANTED**.

Petitioner requests that the documents as listed in the accompanying PTO Form 1449 submitted on January 25, 2006 be expunged from the record. Petitioner states that the information contains materials that are trade secret and/or proprietary material and the information has not been otherwise made public. The petition fee set forth in 37 CFR 1.17(f) 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 materials have been scanned into image; thus, cannot be returned. However, the expunged materials have been closed from public view.

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

Vincent N. Trans, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET, NW
WASHINGTON, DC 20037

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Marko Tuhkela :
Application No. 10/402,970 :
Filed: April 1, 2003 :
Attorney Docket No.: A8319.0023/P023 :

ON PETITION

This is a decision on the petition, filed June 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2884 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Sheldon J. Moss
c/o Yumi Yerks
Apartment #412-North
2111 Jefferson Davis Highway
Arlington VA 22202

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APR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Tomoyuki Ohzeki	:	DECISION ON PETITION
Application No. 10/403,005	:	UNDER 37 CFR 1.78(a)(3)
Filed: April 1, 2003	:	
Attorney Docket No. FSF-03221	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 12, 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 Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. 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 1752 for appropriate action on the amendment filed November 12, 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

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

ATTACHMENT: Corrected Filing Receipt

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

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of :
Nobutaka Suzuki :
Application No. 10/403,011 : ON PETITION
Filed: April 1, 2003 :
Attorney Docket No. 235892US2

This is a decision on the petition, filed November 23, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3653 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 8, 2006

TO SPE OF : ART UNIT 2635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/403019 Patent No.: 7,009,496

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.

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

Comments: _____

SPE

2612

Art Unit

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

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OFFICE OF PETITIONS

In re Patent No. 6,987,645	:	
Issued: 17 January, 2006	:	
Application No. 10/403,033	:	ON PETITION
Filed: 1 April, 2003	:	
Atty Dckt No. 115625	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 323" filed on 22 March, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

AUG 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THE FIRM OF KARL F ROSS PC
5676 Riverdale Avenue, Box 900
Bronx, New York 10471-0900

In re Application of
Sergio Oscar Szulanski
Application No. 10/403,082
Filed: April 1, 2003
For: **MEANS ARRANGEMENT CAPABLE OF SELECTING AND SIGNAL A PUBLIC TRANSPORTATION MEANS TO STOP AT ITS STOPPING PLACE, AND TO DETECT SAID STOPPING PLACE OF SAID TRANSPORTATION MEANS, PARTICULARLY APT TO BE USED BY HANDICAPPED PEOPLE, MORE PARTICULARLY STILL, BY PEOPLE WITH**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF
ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed August 3, 2005, pursuant to 37 C.F.R. 1.181(a). No fee is required.

This application was held abandoned for failure to timely file the Issue fee in response to the Notice of Allowance and Issue Fee Due mailed October 20, 2004. A Notice of Abandonment was mailed March 4, 2005.

Petitioner alleges that they did not receive the Notice of Allowance. In support thereof, petitioner has provided a copy of a Power of Attorney request, date-stamped as received in the Office on December 11, 2003 and also a copy of the Notice of Allowance which depicts that the Notice was mailed to the previous correspondence address.

A review of the file record reveals the Power of Attorney request with a date-stamp receipt of December 11, 2003. Clearly the Notice of Allowance was mistakenly mailed to a previous correspondence address resulting in an irregularity in mailing. Therefore, in view of the aforementioned reasons, the holding of abandonment is withdrawn. The Notice of Allowance mailed October 20, 2004 is vacated.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance mailed October 20, 2004 was not received, it is presumed that applicant also failed to receive the Notice of Allowability mailed with the Notice of Allowance. Accordingly, the application file will be forwarded to the Technology Center's technical support staff for entry of the power of attorney filed December 11, 2003 and for preparing a new Notice of Allowance and Issue Fee Due. A new period for response will be set to run from the date of the new mailing. A copy of the original Notice of Allowability that was mailed on October 20, 2004 will be included.

It is noted that applicant paid the issue fee and publication fee on August 3, 2005. Applicants can request that the fees paid on August 3, 2005 be applied to the new issue fee due date, when submitting their response (i.e., form PTOL 85 part B)

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of :
Uta et al. :
Application No. 10/403,103 :
Filed: March 28, 2003 :
Attorney Docket No. 81018/7114 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed May 26, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred for (1404) days, not seven hundred twenty-six (726) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

DOCKET NO. 7114/81018

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 10/403,103 Applicants: Takaaki Ota Filed: March 28, 2003 Title: VIDEO ENCODER WITH MULTIPLE OUTPUTS HAVING DIFFERENT ATTRIBUTES Examiner: PHILIPPE, Gims S. Art Unit: 2621 Customer No.: 22242 Confirm. No.: 4533	**Certificate of Transmission/Mailing** I hereby certify that this correspondence is being facsimile transmitted to the USPTO, transmitted via the Office electronic filing system, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below: Date Thomas F. Lebens Registration No. 38,221 Attorney for Applicants

APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)

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

Dear Sir:

Reconsideration is respectfully requested of the Patent Term Adjustment that was indicated in the Notice of Allowance to be 726 days in respect of the above-identified application. Applicants respectfully submit that the Patent Term Adjustment should be 1404 days under 37 C.F.R. §§ 1.703-1.705 and 35 U.S.C. § 154(b) since the initial determination of Patent Term Adjustment improperly overlaps A period delay with B period delay, instead of adding such delays.

Reference is made to 35 USC 154(b)(2)(A) (the "Actual Delay" limitation). The

statute limits Patent Term Adjustment where USPTO delays overlap: "To the extent that periods of delay specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed." 35 USC 154(b)(2)(A). **Granting either the greater of the A period (i.e., delay under 35 U.S.C. § 154(b)(1)(A)(i)) or the B period (i.e., delay under 35 U.S.C. § 154(b)(1)(B)) is not in accordance with the statute and the patentee is due a term extension in an amount equal to the A period plus the B period, except for any actual overlap between the two periods.** The B period begins when the USPTO has failed to issue a patent within three years, not before. In calculating these two periods, computation of the A period begins at 14 months following the filing date, and calculation of the B period begins at three years following the filing date.

Thus, computing the patent term adjustment consistent with 35 USC 154(b)(2)(A), Applicants respectfully submit that the patent term adjustment should be 1404 days assuming that the patent issues September, 1, 2009, which is the Tuesday before the date that is 28 weeks after the mailing date of the Notice of Allowance.

The present application was filed March 28, 2003. As supported by the attached AIPA Term Calculation Report, the A period delay of 37 C.F.R. § 1.703(a) is equal to 293 days (242 days + 51 days, see Row A on page 2, and Row F on page 3). The B period delay of 37 C.F.R. § 1.703(b) is equal to 1253 days assuming the patent issues September 1, 2009 (see Row B on page 2). The period of actual overlap of the A period delay and the B period delay is 22 days (see page 8). Thus, the non-overlapping portion of the A period delay and the B period delay is 1524 days (see page 8). Applicants have delayed a total of 120 days under 37 C.F.R. § 1.704 (see Row V on page 8). The attached AIPA Term Calculation Report is calculated consistent with 35 USC 154(b)(2)(A). Thus, the patent term adjustment should be 1404 days (242+51+1253-22-120 days), not 726 days as printed in the Notice of Allowance (see page 8).

This patent application is not subject to a terminal disclaimer.

This application for patent term adjustment is timely filed no later than the payment of the issue fee under 37 C.F.R. § 1.705(b).

According to 37 C.F.R. § 1.705(b)(1), the fee of 37 C.F.R. § 1.18(e) is provided herewith.

Respectfully submitted,

Dated: 5/21/2009

Thomas F. Lebens
Reg. No. 38,221
Attorney for Applicants
(805) 781-2865

Attachment: AIPA Term Calculation Report (8 pages)

Address all correspondence to:
FITCH, EVEN, TABIN & FLANNERY
120 So. LaSalle Street, Ste. 1600
Chicago, IL 60603

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/13/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10403109
Patent No.: 7313115

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: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

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APR 18 2008

WILLIAM F. LAWRENCE
FROMMER LAWRENCE & HUANG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:
HACKER	:Decision on Petition
Serial No.: 10/403,134	:
Filed : 31 March 2003	:
Attorney Docket No.: 5144133769.2	:

This letter is in response to the petition of finality of restriction requirement filed on 28 January 2008 and in response to the request to withdraw the petition filed 22 February 2008.

The file history and petition have been considered carefully. Restriction under 35 USC 121 is made at the Office's discretion. Upon reconsideration, the examiner has agreed to withdraw the election of species requirement set forth on 11 December 2006.

Therefore, the request to withdraw the petition filed on 22 February 2008 is **GRANTED**.

The petition filed on 28 January 2008 is **DISMISSED**. The restriction requirement set forth on 11 December 2006 has been withdrawn at the examiner's discretion.

The application will be forwarded to the examiner to consider the papers filed in response to the last Office action and to prepare an Office action consistent with this petition 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.

John LeGuyader
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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Paper No. 082304

William Weigl
1805 Conwood Dr.
Troy, OH 45373

SEP 15 2004

In re Application of:
Karl S. Schroeder
Serial No.: 10/403141
Filed: April 01, 2003
Attorney Docket No.: **KSS 107**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 09, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the 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 evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from Karl S. Schroeder stating that the he is sixty-five (65) years of age or more. In addition, a copy of a driving license and birth certificate for Karl S. Schroeder is included as evidence.

Accordingly, the petition is GRANTED. After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33. This petition appears to have been filed by the inventor.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJr: 03-04

Paper No: 7

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of:
Alsobrook, et al.
Filed: 31 March, 2003
Application No. 10/403,142
Docket No.: 21402-573A

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 23 January, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 31 March, 2003, without an executed oath or declaration;
- accordingly, a Notice to File Missing Parts of Application was mailed on 23 July, 2003, requiring an executed oath or declaration, and a surcharge for the late filing;
- the petition (with fee, surcharge for late filing, request and fee for extension of time, correspondence and oath/declaration signed by the co-inventors John Alsobrook, Patricia Bento, Ferenc Boldog, Catherine Burgess, Stacie Casman, Julie Crabtree Bokor, Shlomit Edinger, Karen Ellerman, Valerie Gerlach, William Grosse, Erik Gunther, Vladamir Gusev, Melvyn Heyes, Li Li, John MacDougall, Uriel Malyankar, Isabelle Millet, Meera Patturajan, John Peyman, Luca Rastelli, Daniel Rieger, Suresh Shenoy, Richard Shimkets, Glennda Smithson, David Stone, Corine Vernet and Edward Voss on behalf of

themselves.and the non-signing inventors Elma Fernandez (**Ms. Fernandes**) and Denise Lepley (**Ms. Lepley**) makes the required showing under 37 C.F.R. §1.47(a) of an attempt to present/deliver the entire application to Ms. Fernandes and Ms. Lepley;

- specifically, the declaration/statement/submission of facts of/by Ivor R. Elrifi (Reg. No. 39,529) and (signor) Christina K. Stock (Reg. No. 45,899) and that of Nicole Carlucci of the Intellectual Property office of CuraGen Corporation establish that the non-signing inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration; and

- Petitioner has shown proprietary interest/irreparable harm.

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

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

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

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 1600 for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
David Angelo Tomasso et al :
Application No. 10/403,153 : ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. CDS 0292 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). One (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 14, 2007.

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

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

This application is being referred to Technology Center AU 1797 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.

Irvin Dingle
Petition Examiner
Office of Petitions

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ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

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OFFICE OF PETITIONS

In re Application of :
Avinoam Kornblit et al :
Application No. 10/403,159 : DECISION ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. :
KORNBLIT 17-12-11-1-3-14

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 5, 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 July 6, 2006. A Notice of Abandonment was mailed on November 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of April 5, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1743 for appropriate action in the normal course of business on the reply received November 20, 2006.

Telephone inquiries concerning 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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OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re Application of	:	
Rubin, et al.	:	
Application No. 10/403,185	:	DECISION ON PETITION
Filed: March 27, 2003	:	TO WITHDRAW
Attorney Docket No. 3945P2582	:	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 30, 2006 and September 5, 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 Craig R. Weiss on behalf of all attorneys of record who are associated with customer No. 23504.

All attorneys/agents associated with the Customer Number 23504 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 16, 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: Aaron Cole
1304 East Lind Road
Tucson, AZ 85719

cc: Andrew Goodstein
AAA Doodads, LLC
7207 E. Stone Canyon Drive
Tucson, AZ 85750

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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
10/403,185	03/27/2003	Aaron Cole Rubin	3945P2582

CONFIRMATION NO. 4583

OC000000020652582

OC000000020652582

23504
WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

Date Mailed: 09/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:
Carson, et al.	:
Application No. 10/403,186	: DECISION ON PETITION
Filed: March 31, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. ORT-1623	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 22, 2004, 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant

nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/371,350, which was filed on April 2, 2002, for which priority is claimed.

37 CFR 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(6), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §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 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 Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1625 for appropriate action on the amendment submitted October 22, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/371,350.

Frances Hicks

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

ATTACHMENT Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 5

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SEP 04 2003

OFFICE OF PETITIONS

HENRY I. SCHANZER
29 BROOKFALL ROAD
EDISON NJ 08817

In re Application of
George John McCormack
Application No. 10/403,189
Filed. March 31, 2003
Attorney Docket No. Glasseal-2

DECISION GRANTING PETITION

This is a decision on the petition filed July 30, 2003 under 37 CFR 1.53, in response to the "Notice to File Corrected Application Papers" mailed May 28, 2003.

The instant application was filed March 31, 2003 and a filing date was accorded. However, according to the Notice to File Corrected Application Papers, which also included a Notice of Omitted Items, it was indicated that the application papers submitted did not include Figures 5-10A as described in the specification.

Petitioner asserts that Figures 5-10A were among the papers filed on March 31, 2003, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 10 and bears a United States Patent and Trademark Office date-stamp of March 31, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.**

Given the basis for granting the petition, no petition fee is due and therein, $130.00 will be refunded to petitioner.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on March 31, 2003 and the five sheets of drawings containing Figures 5-10A submitted on petition July 30, 2003.

It should be noted that in response to the Notice to File Corrected Application Papers, 10 sheets of Formal Drawings were also submitted on July 30, 2003.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9/3/03

2 Serial/Patent # 10/403,189

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	7/30/2003	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Post card receipt. NO OMITTED ITEMS

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 3034497

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alice Kelly DATE: 9/5/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Paper No. None

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OFFICE OF PETITIONS

In re Application of :
David R. Fischell et al. :
Application No. 10/403,210 :
Filed: April 1, 2003 :
Attorney Docket Number: MR3065-24 :
Title: EXTERNAL PATIENT ALERTING SYSTEM FOR IMPLANTABLE DEVICES :

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

This is a decision on the petition filed August 30, 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 file a proper response to the Restriction Requirement, mailed January 9, 2006, which set a shortened statutory period to reply for one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. 1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 10, 2006. A Notice of abandonment was mailed on August 4, 2006.

---

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.

The present petition under 37 C.F.R. §1.137(b) was received on August 30, 2006, along with the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement that was submitted concurrently with the present petition can be processed.

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

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

2 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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Sheldon R. Meyer
Fliesler Meyer LLP
Four Embarcadero Center, Fourth Floor
San Francisco, CA 94111-4156

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Nguyen et al.
Application No. 10/403,211
Filed: April 1, 2003
Attorney Docket No. TEGL-011184US1

This is a decision on the petition filed July 19, 2004, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that Figures 6A and 6B were part of the originally filed application.

On June 3, 2004, a Notice was mailed stating that Figures 6A and 6B described in the specification did not appear to be included as part of the application filed.

The present petition alleges that the missing Figures were deposited on April 1, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 6 sheets of drawings on April 1, 2003.[1] Petitioner has also submitted a copy of the missing documentation.

The USPTO file for this application includes only 5 sheets of drawings and does not include a drawing sheet containing Figures 6A and 6B described in the specification. Based on the evidence submitted, the Office concludes the missing page was part of the application but was later misplaced. Therefore, the petition is **granted**.

The petition fee will be credited to petitioner's deposit account.

The Notice mailed June 3, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of April 1, 2003, using the application papers filed on April 1, 2003, and the copy of sheet six of the drawings containing Figures 6A and 6B filed on July 19, 2004.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 03122007

DATE : 3-12-07

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction on Patent No.: 6,974,036

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

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

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

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

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

Note your decision on the appropriated box.

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

Comments:

SPE: 3634 Art Unit

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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL FL 33322

In re Application of
Gustavo D. Leizerovich, et al.
Application No. 10/403,231
Filed: March 31, 2003
Attorney Docket No. CE10631J

ON PETITION

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

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before February 21, 2006. A Notice of Abandonment was mailed April 25, 2006. Receipt is acknowledged of the requisite issue/publication fee on May 25, 2006.

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

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Motorola, Inc.
8000 W. Sunrise Blvd.
Plantation, FL 33322

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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P. O. BOX 12257
RESEARCH TRIANGLE PARK, NC 27709-2257

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OFFICE OF PETITIONS

In re Application of	:
Janet Louise Suttie et al	:
Application No. 10/403,232	: DECISION GRANTING PETITION
Filed: March 28, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 70005USNP	:

This is a decision on the petition, filed September 12, 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 August 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Sept10\403232.wpd

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

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ARTHUR FREILICH
9045 CORBIN AVE, #260
NORTHRIDGE CA 91324-3343

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MAY 27 2005
OFFICE OF PETITIONS

Applicant: Bachorik et al.
Appl. No.: 10/403,252
Filing Date: March 31, 2003
Title: METHOD AND APPARATUS FOR TESTING TELEPHONE SOUND QUALITY
Attorney Docket No.: 202/504
Pub. No.: US 2003/0185351 A1
Pub. Date: October 2, 2003

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on August 11, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains errors in Table 1 and Table 4.

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33. Furthermore, when inventors sign papers for the Office, all of the inventors must sign the paper. See 37 CFR 1.33.

Since, the inventors have given a power of attorney and since only one of the three inventors has signed the paper, the request is dismissed.

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

of a patent.[1]

The request for corrected publication received on August 11, 2004, was not timely filed under 37 CFR 1.221(b), and it has not been considered because it was not timely filed.

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

cc
Davin J. Lee
Wyle Laboratories, Inc.
7800 Highway 20 West
Huntsville, AL 35806
1001 Leadville Ave., Apt. 203
Boise, ID 83706

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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5-18-06

thm

In re Application of
Dimitri Zafiroglu et al.
Serial Number: 10/403,254
Filed: March 31, 2003
For: COMPOSITE SHEET SUITABLE FOR USE AS ARTIFICIAL LEATHER

DECISION
ON
PETITION

This is a decision on the PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. 1.84(b)(2), filed July 7, 2005 to permit color photographs since (1) the fee as required by 37 C.F.R. 1.17(h) has been paid, (2) at least one set of the color photographs have been filed, and (3) the specification includes the language set forth in 37 C.F.R. 1.84(a)(2)(iv). The color photographs are for Figures 1, 2, 5 & 6.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **Granted**.

Terrel Morris
Supervisory Patent Examiner
Technology Center 1700

The H T Thai Law Group
1010 Wisconsin Ave N W
Suite 560
Washington, DC 20007

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Paper No. 5

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON MA 02021-2310

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of
Porat, et al.
Application No. 10/403,262
Filed: March 31, 2003
Attorney Docket No. EMC2-139PUS
For: DATA STORAGE SYSTEM

DECISION GRANTING
PETITION

This is a decision on the petition, filed June 16, 2003 (certificate of mailing date June 12, 2003), requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed May 19, 2003, insofar as it alleges that Figure 5 was omitted upon filing. The petition will be treated under 37 CFR 1.53(e)

The application was deposited on March 31, 2003. On May 19, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 5 described in the specification appeared to have been omitted. In addition, the Notice required petitioners to submit replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 5 be accorded a filing date of March 31 2003 on the basis that 9 sheets of drawing figures, including Figure 5, were received in the Patent and Trademark Office (PTO) on March 31, 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 31, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 9 sheets of informal drawings. A review of the application file reveals that 9 sheets of informal drawing figures are present. Figure 5 is clearly present on sheet 6/9.

The return postcard constitutes *prima facie* evidence that 9 sheets of informal drawing figures were filed on March 31, 2003. MPEP 503. The original drawings present in the application file include Figure 5. Accordingly, the request is **granted**.

Pursuant to petitioners' authorization, deposit account no. 50-0845 will be credited the $130 fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 31, 2003**, using the 9 sheets of replacement drawing figures submitted with the instant petition. Office records will be corrected to show that 9 sheets of drawing figures were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/12/03

2 Serial/Patent # 10/403,262

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	6/16/03	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 50--0845

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Allegedly omitted drwg fig. present on filing. Refund pet fee

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Shirene Willis TITLE: Pet Atty

SIGNATURE: E. Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

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APPROVED: Alicia Kell DATE: 11/13/03

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-25-10

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/403264 Patent No.: 7444320

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE — 2161 Art Unit

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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Zhao et al.	:	
Application No. 10/403,305	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. CS22830RL	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 5, 2010, 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 Technology Center AU 2617 for processing of the Amendment under 37 CFR 1.312 submitted November 27, 2009. Thereafter, the application will be referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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MAR 1 5 2007

OFFICE OF PETITIONS

In re Application of
LEMMONS, Thomas
Application No. 10/403,317
Filed: March 27, 2003
Attorney Docket No. 577172000120

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 September 14, 2006 and re-submitted January 17, 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 Adam Keser on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON PEABODY, LLP**
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

MEDTRONIC INC
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of	:	
Brabec, et al.	:	
Application No. 10/403,329	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. P0010230.00	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 17, 2010.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed June 12, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on September 13, 2009. The Office mailed a Notice of Abandonment on January 14, 2010.

With the instant petition, applicants made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 3766 for consideration of the Amendment, filed March 17, 2010.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/403,341	03/27/2003	Jason F. Moore	305132.01/MFCP.141727	3769

7590 05/03/2010

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

EXAMINER
EHICHIOYA, FRED I

ART UNIT	PAPER NUMBER
2156	

MAIL DATE	DELIVERY MODE
05/03/2010	PAPER

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

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

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

MICROSOFT CORPORATION
One Microsoft Way
Redmond WA 98052

In re Application of:	:	
MOORE, Jason et al.	:	**RESPONSE TO PETITION**
Appl. No.: 10/403,341	:	**UNDER 37 CFR § 1.59**
Filed: March 27, 2003	:	
For: SYSTEM AND METHOD FOR FILTERING AND	:	
ORGANIZING ITEMS BASED ON COMMON	:	
ELEMENTS	:	
	:	

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

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)
7,029,688	2006-04-18	10/403,344	2003-03-28	CIT 2662 DIV

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Rivka D. Monheit/	Date (YYYY-MM-DD)	2010-05-26
Name	Rivka D. Monheit	Registration Number	48731

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7029688
Issue Date: April 18,2006
Application No. 10403344
Filed: March 28,2003
Attorney Docket No. CIT 2662 DIV

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

This is a decision on the electronic petition, filed May 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JAN 24 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Michael C. Jones et al :
Application No. 10/403,357 :
Filed: March 31, 2003 :
Attorney Docket No. DEP5063 :

This is a decision on the petition under 37 CFR 1.313(c), filed January 18, 2006, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3732 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

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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.

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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JUN 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Assaf Pazner	:	
Application No. 10/403,374	:	ON APPLICATION FOR
Filed: March 31, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
02-1189-A	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on January 9, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1710 (1330 + 380) days, not 581 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, 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). No additional fees are required.

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.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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US BANK BUILDING
SUITE 401
8000 EXCELSIOR DRIVE
MADISON, WI 53717-1914

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OFFICE OF PETITIONS

In re Application of :
Fen Huang, et al. :
Application No. 10/403,395 :
Filed: March 31, 2003 :
Attorney Docket No. 34506.140 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely or properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed May 27, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 28, 2003.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Intellectual Property Dept.
Dewitt Ross & Stevens SC
2 East Mifflin Street
Suite 600
Madison WI 53703-2865

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OFFICE OF PETITIONS

In re Application of	:	
Fen Huang, et al.	:	
Application No. 10/403,395	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 34506.140	:	

This is a decision on the petition under 37 CFR 1.137(b) filed September 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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 March 11, 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 41.37(b). As no claim was allowed, the application became abandoned on May 14, 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 $1,500; and (3) an adequate statement of unintentional delay.

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

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

The application file is being referred to Technology Center AU 1652 for appropriate action on the appeal brief.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Joseph T. Leoene**
DeWitt Ross & Stevens S.C.
8000 Excelsior Drive, Suite 401
Madison, WI 53717

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LYNN L. AUGSPURGER
IBM CORPORATION
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POUGHKEEPSIE, NY 12601

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OFFICE OF PETITIONS

In re Application of	:	
Mark A. Check, et al.	:	
Application No. 10/403,417	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No.: POU920030053US1	:	

This is a decision on the petition, filed April 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 April 4, 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 2183 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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CRAIG R. WEISS
WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of Rubin et al. Application No. 10/403,418 Filed: March 27, 2003 Title: Reading Book Including Partially Electronic Page Display	: : : : :	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 May 30, 2006 and September 5, 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.

The request was signed by Craig R. Weiss on behalf of all attorneys of record who are associated with Customer No. 23504.

All attorneys/agents associated with Customer Number 23504 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The Change of Correspondence Address request filed in the above-identified application on May 30, 2006 and on September 5, 2006 by Mr. Weiss is not accepted. The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

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

The request could not be processed since a Statement under 37 CFR 3.73(b) was never filed in the above-identified application by the assignee. Accordingly, all future correspondence will be directed to the first named inventor at the address indicated below.

A Notice of Abandonment was mailed on March 5, 2007.

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Mr. Aaron Cole Rubin
1304 East Lind Road
Tucson AZ 85719

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William Squire
CARELLA, BYRNE, BAIN, GILFILLAN,
CECCHI, STEWART & OLSTEIN
5 Becker Farm Road
Roseland, NJ 07068

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DEC 15 2005

TECHNOLOGY CENTER 3600

In re Application of
Lawrence John Brophy III et al
Application No. 10/403,425
Filed: March 31, 2003
Attorney Docket No.: 455760-53
For: EXHAUST PIPE JOINT AND SEAL

DECISION ON PETITION
TO INVOKE SUPERVISORY
AUTHORITY UNDER
37 CFR 1.181 AND 37 CFR 1.144

This is in response to applicants' petition for supervisory review filed November 2, 2005. The petition includes a request under 37 CFR 1.181 for entry of the amendment after final filed on October 14, 2005 and a request under 37 CFR 1.144 to withdraw the restriction (sic, election) requirement first set forth in the Office action mailed January 29, 2004.

The petition is **DENIED**.

With respect to applicants' request under 37 CFR 1.144, applicants allege that the requirement is in error because the relationship between the claims is that of combination and subcombination and the examiner has failed to properly show distinctness therebetween. Accordingly, it is applicants' position that withdrawn claims 22 and 37 should be examined by the examiner.

A review of the record reveals first of all that the original requirement advanced by the examiner was not a restriction between combination and subcombination as alleged, but rather, a requirement to provisionally elect a single patentably distinct species of the claimed invention. See the Office action mailed January 29, 2004. Second, applicants did not traverse the requirement, itself. Rather, applicants' "traverse" was directed solely to the allegation that "generic" claims were present. See the responses filed February 20, 2004 and June 14, 2004. Applicants also filed further responses on September 10, 2004, February 25, 2005, June 6, 2005, September 12, 2005, and October 12, 2005 and at no time did applicants ever present a proper traversal of the election requirement, let alone a traversal for the reason presented on page 5 of the petition.

In accordance with 37 CFR 1.143 and MPEP 818.03(a), the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part:

> "...The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action..."

Under this rule, applicants are required to specifically point out the reasons on which they base their conclusions that the requirement is in error. A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR 1.111(b).

In the response of February 20, 2004, applicants state that the species of Group I is elected "with traverse". Applicants then state that the restriction is traversed "to the extent it is directed to the claims". See page 2, lines 2 and 7. At no time in the response filed February 20, 2004 do applicants contend that the examiner's holding that the various identified embodiments constitute patentably distinct species is in error. 37 CFR 1.144 and MPEP 818.03(c) make it clear that an applicant must traverse to preserve their right to file a petition. Further, if an applicant fails to distinctly and specifically point out the supposed errors, then the election is treated as an election without traverse.

The arguments traversing the requirement provided for the first time in the instant petition are untimely. Moreover, from these arguments, it appears that applicants have not properly analyzed the examiner's action in the context of the established practice for requiring an election of species as established in Chapter 800 of the MPEP. It is well-established practice that a requirement to elect a single species is a holding by the examiner that the plural species, as claimed, are patentably distinct, i.e., capable of supporting separate patents. See MPEP 808.01(a) and MPEP 809.02(a). If applicants are of a different view, then they need merely clearly state on the record that the species are not patentably distinct. Neither the examiner nor the applicants need to present any reasoning. There has been no attempt on the part of the examiner to restrict on the basis of combination and subcombination and therefore MPEP 806.05(c) is not applicable to the instant requirement.

With respect to the issue of "generic" claims, the fact that a claim may read on each species is not a conclusive indication that the claim is generic. By definition, a generic claim should require no material element additional to those required by the species claims and each species claim must require all the limitations of the generic claim. See MPEP 806.04 (d). Independent claims 1 and 26 are not generic claims as applicants have alleged in previous responses. In particular, the fact that these claims recite specifics of each disclosed species, in the alternative, does not make these claims generic because the species claims do not require all of the limitations of these claims. Further, examination of these claims does not require the prior art to possess each alternative before the claim is met. Conversely, if claim 1 were found to be allowable because the prior art neither taught nor suggested the first interface connection on the first flange outer cylindrical surface, species claims for the species of Figure 1 would not be capable of possessing this feature because the interface connection therefore is on the pipe outer cylindrical surface.

Nevertheless, the presence or absence of generic claims is not indicative of error in the making of an election requirement. A claim being generic only matters when that claim is allowable because, upon allowance of a generic claim, applicants will be entitled to consideration of claims

to additional species which include all the limitations of the allowed generic claim. However, all claims to the additional species must include all of the limitations of the allowed generic claim. In the instant situation, claim 1 is not allowed and non-elected claims to the additional species depend therefrom. Accordingly, not all of the claims to the additional species include all the limitations of the allowed "generic" claim.

With respect to applicants' request under 37 CFR 1.181, applicants' allege that the amendment after final filed October 14, 2005 does not raise new issues because "configured" and "dimensioned" are equivalents and "releasable" was previously presented in claim 39.

MPEP 714.13 sets forth that any response after final under 37 CFR 1.113 is limited to an amendment complying with 37 CFR 1.116; a Notice of Appeal (and appeal fee); or a request for continued examination under 37 CFR 1.114. Entry of any amendment filed after final is no longer a matter of right for applicants. Further, except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with 37 CFR 1.116(b)(3) is expected for all amendments filed after a final rejection.

A review of the file history reveals that applicants' amendment was denied entry by the examiner because the limitation "the seal having a second interface connection in the bore dimensioned to be movably and releasably connected to the first interface connection", claim 1, lines 11-12, raised new issues requiring further consideration and/or search. Further, it is noted that the releasable connection feature for which entry into claim 1 is now sought was first entered into independent claim 39 in a response filed September 10, 2004. Finally, both claims 1 and 39 stand rejected in the final rejection mailed September 26, 2005.

Claim 1, as finally rejected, does not require a releasable connection between the seal and the outer cylindrical surface of one of the pipes. Thus, the proposed inclusion of this feature in claim 1 represents a new limitation for claim 1. Applicants assert that this new limitation does not raise a new issue because it was already presented in claim 39 and therefore no further search is required. No explanation has been provided in either the proposed amendment after final or the instant petition as to why this limitation is now necessary and was not earlier presented, especially when such was introduced into claim 39 one year earlier.

Applicants' allegation that no new issue is raised because no further search is required is not persuasive because search is not the only factor one considers when determining if a new issue has been raised. In particular, it should be noted that the examiner stated that the proposed limitation required further *consideration and/or* search. While such limitation is present in claim 39, it is noted that claim 39 stands rejected and therefore the inclusion of this limitation into claim 1 does not place the claim in *prima facie* condition for allowance. Additionally, it is noted that the proposed amendment does not merely adopt the examiner's suggestion, cancel claims or in some other way require only a cursory review by the examiner.

In comparing the scope of claims 1 and 39, it is first noted that claim 1 is drawn to a seal construction while claim 39 is drawn to a seal joint construction. Thus, it is evident that claim 1

is drawn to the seal while claim 39 is drawn to the joint. This is further evidenced by the preamble of claim 1 which states that the seal construction is "for an automotive exhaust system joint" and then defines the elements of the joint. Second, it is noted that claim 1 recites an annular seal having a cylindrical bore which defines an interface connection that is connected to a first interface connection possessed by one of the first flange outer cylindrical surface or the first or second pipe outer cylindrical surfaces. Meanwhile, claim 39 sets forth a releasable connection between the seal[1] and the outer cylindrical surface of one of the pipes. Claim 39 does not recite a releasable connection between the seal and the first flange outer cylindrical surface. This releasable connection is possessed by the non-elected species of Figures 13-15. Given the fact that applicants did not elect the species of Figures 13-15 for examination and claim 39 does not recite a releasable connection between the seal and the first flange outer cylindrical surface, it is evident that the examiner did not previously consider, nor have the opportunity to consider, this limitation. Accordingly, it is equally evident that the proposed insertion to claim 1 would add a new limitation that raises a new issue not previously considered which, contrary to applicants' allegation, requires further consideration and/or search on the part of the examiner.

For the foregoing reasons, the examiner's provisional election requirement of January 29, 2004 and his denial of entry of the amendment after final filed on October 14, 2005 is proper.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

KJD/DS: 12/6/05

[1] This term lacks proper antecedent basis as no seal has been previously set forth.

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CARELLA BYRNE BAIN GILFILLAN
CECCHI STEWART & OLSTEIN
5 BECKER FARM RD
ROSELAND NJ 07068

COPY MAILED

MAY 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Brophy III, et al.	:	
Application No. 10/403,425	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 455760-53	:	

This is a decision on the petition under 37 CFR 1.181, filed May 2, 2006, to withdraw the holding of abandonment of the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

This application was held abandoned for failure to timely reply to the final Office action mailed September 26, 2005. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on December 27, 2005. A Notice of Abandonment was mailed on May 1, 2006.

Petitioner contends that he did timely file a proper response, namely an RCE, on December 21, 2005. In support, petitioner has included a copy of a properly itemized postcard receipt, showing that an "RCE" was filed on December 21, 2005. Furthermore, a

review of Office records reveals that the fee for an RCE was received on December 21, 2005.

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.

However, before the petition to withdraw the holding of abandonment can be granted, petitioner is requested to supply a copy of the RCE filed on December 21, 2005. There is no such paper present in the application file.

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: (501)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

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Commissioner for Patents
United States Patent and Trademark Office
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CARELLA BYRNE BAIN GILFILLAN
CECCHI STEWART & OLSTEIN
5 BECKER FARM RD
ROSELAND NJ 07068

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Brophy III, et al.	:	
Application No. 10/403,425	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 455760-53	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed June 2, 2006, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the final Office action mailed September 26, 2005. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on December 27, 2005. A Notice of Abandonment was mailed on May 1, 2006.

In a petition filed May 2, 2006, Applicants contended that they did timely file a proper response, namely an RCE, on December 21, 2005. In support, Applicants included a copy of a properly itemized postcard receipt, showing that an "RCE" was filed on December 21, 2005. Furthermore, a review of Office records revealed that the fee for an RCE was received on December 21, 2005.

However, the petition was dismissed in a decision mailed on May 26, 2006. The decision agreed that Applicants did submit *prima facie* evidence of the timely filing of the RCE. However, the petition was dismissed because Applicants did not supply a copy of the RCE for the application file. Applicants were requested to supply a copy of the RCE filed December 21, 2005.

With the instant request for reconsideration, Applicants have submitted a copy of the RCE filed December 21, 2005.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3679 for consideration of the RCE filed December 21, 2005 (copy supplied on petition filed June 2, 2006).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/403,453	03/31/2003	Troels Volsgaard Christensen	5432/0M604US0	2459

7278 7590 01/15/2004

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

EXAMINER

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 01/15/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DEC 29 2003

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:
Troels v. Christensen et al	:
Serial No.: 10/403,453	: PETITION TO MAKE SPECIAL
Filed: March 31, 2003	:
Attorney Docket No.: 5432/0M604	:

This is in response to applicants' petition filed March 31, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

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

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JAN - 6 2004

John C. Todaro
DARBY & DARBY, P.C.
Post Office Box 5257
New York, NY 10150-5257

In re Application of	:
Troel Volsgaard et al	:
Serial No.: 10/403,453	: Decision on Petition
Filed: March 13, 2003	:
Attorney Docket No.: 5432/0M604	

This is in response to applicant's "Petition To Make Special Under 37 CFR 1.102" filed November 4, 2003.

Applicant's statement has been considered. The requirements under 37 CFR 1.102(d) have been met. Accordingly, the petition is granted. The prosecution will proceed according to the procedure set forth in MPEP 708.02; there is no provision for "withdrawal" from this special status.

Petition GRANTED.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang
Special Program Examiner, Technology Center 1600

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HOLLAND & KNIGHT LLP
Attn: Stefan Stein/IP Dept
131 S. DEARBORN STREET
30TH FLOOR
CHICAGO IL 60603

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
RICHARD K.BOLEN	:	
Application No. 10/403479	:	DECISION ON PETITION
Filed: 03/31/2003	:	
Attorney Docket No. 072395.00013	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 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 August 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 29, 2006.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 3653 for appropriate action by the Examiner in the normal course of business on the reply received March 9, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/403,486	04/01/2003	Seiji Ohbi	233348US6	3875

22850 7590 02/03/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TO, BAOTRAN N

ART UNIT	PAPER NUMBER
2135	

NOTIFICATION DATE	DELIVERY MODE
02/03/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Bradley D. Lytle
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
Seiji Ohbi, et al.
Application No. 10/403,486
Filed: April 1, 2003
For: Reproducing method, reproducing apparatus, recording method, and recording apparatus

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

This is a decision on the petition filed on October 22, 2008 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider reference AW listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on February 16, 2005.

The petition is **Dismissed as moot**.

BACKGROUND

The February 16, 2005 IDS was filed under 37 CFR 1.97(c) and does meet the requirements of both rules 1.97 and 1.98 so consideration by the examiner is warranted. The examiner has considered the document and a signed, initialed and dated 1449 has been scanned into IFW as of January 7, 2009. Accordingly, as applicant's relief has already been received the petition is moot and therefore dismissed.

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

Tod Swann
WorkGroup QAS
Technology Center 2400
Computer Architecture, Software, and
Information Security

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:
Jean-Pierre Robin et al	:
Serial No.: 10/403,506	: PETITION DECISION
Filed: April 4, 2003	:
Attorney Docket No.: 1017753-000175	:

This is in response to the petition under 37 CFR 1.181, filed September 10, 2007, requesting withdrawal of a requirement for a new declaration.

In the Notice of Allowability mailed June 8, 2007, the examiner required a new declaration be submitted because a change of an inventor's citizenship was not initialed. A review of the signed declaration shows that the inventors signature appears immediately above the altered citizenship line. The examiner objected to the alteration as not being initialed, as is normally required. However, the inventor's signature immediately above the altered line is sufficient to waive the examiner's requirement as it is presumed that the inventor recognized the inventorship error and corrected it at the time of signing of the declaration.

The petition is **GRANTED**.

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

John Leguyader
Director, Technology Center 1600

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George A. Loud, Esquire
BACON & THOMAS
Fourth Floor
625 Slaters Lane
Alexandria, VA 22314-1176

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OFFICE OF PETITIONS

In re Application of
Okuno, et al.
Application No. 10/403,509
Filed: April 1, 2003
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed May 7, 2007, which set a three (3) month shortened statutory period for reply. A response was filed on September 7, 2007, with a request for an extension of time within the first month. By an Advisory Action mailed September 25, 2007, petitioner was informed that the reply of September 7, 2007, did not place the application in condition for allowance. The application became abandoned on September 8, 2007. A Notice of Abandonment has not yet been mailed .

The Notice of Appeal, filed November 19, 2007, is noted. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded to Technology Center 3600, GAU 3682 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 4

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Högestätt et al.
Application No. 10/403,527
Filed: April 1, 2003
Attorney Docket No. 06803.0007-02

ON PETITION

This decision concerns the July 18, 2003 petition, requesting that a "Notice of Incomplete Nonprovisional Application" for the above-referenced application be withdrawn.

The petition is **GRANTED.**

On April 1, 2003, the application was deposited.

On June 25, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" ("6/25/03 Notice"), requiring, *inter alia*,[1] drawings of Applicants' invention; and stating that the filing date would be the date of receipt of these drawings.

The instant petition, accompanied by 9 sheets of drawings containing Figures 1, 2A-C, 3A-C, 4A-D, 5A-D, 6A-B, and 7a-b, asserts that these drawings were, in fact, filed with the other application papers on April 1, 2003. These drawings are not in the application file; nor have Petitioners supplied any evidence for showing that these drawings were received in the USPTO with the remainder of the application.[2]

However, the April 1, 2003 application transmittal indicates in paragraph 1 that " . . . Application No. 09/849,972 . . . is incorporated herein by reference"; and in paragraph 9 that Application No. 09/849,972 is being amended through inserting the following wording before the first sentence of the specification: "This is a continuation of Application No. 09/849,972, . . . which is a continuation-in-part of . . ., both of which are incorporated herein by reference."

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1 Also requested was the application basic filing fee.

2 E.g., a copy of an itemized postcard receipt, date-stamped by the USPTO. MPEP 503 (Rev. 1, Feb. 2003).

MPEP 201.06(c) (Rev. 1, Feb. 2003) permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application.

Based on Applicants' representation that the papers supplied with the petition, including the 9 sheets of drawings, constitute a copy of the prior application, and in light of the "incorporation by reference" statements in the application transmittal deposited on April 1, 2003, it is appropriate, on petition, to accord the application the requested filing date. The petition is thus granted.

Finally, as also indicated in the 6/25/03 Notice, the basic filing fee was not enclosed with the application.[3] This fee, to date, apparently has not been paid.

The application is being returned to OIPE for further processing with a filing date of April 1, 2003, using the papers filed on that day and supplemented with the 9 sheets of drawings submitted with the petition; for mailing of a Filing Receipt reflecting that filing date; and to await submission of the basic filing fee. Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Christina T. Donnell

Christina T. Donnell
Senior Attorney
Office of Petitions

---

[3] The application transmittal specifically requested the PTO to **not** charge the basic filing fee to counsel's deposit account.

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

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JUN 09 2008

In re Patent No. 7,300,650	:	
Lee et al.	:	DECISION ON REQUEST
Issue Date: November 27, 2007	:	FOR RECONSIDERATION OF
Application No. 10/403,528	:	PATENT TERM ADJUSTMENT
Filed: April 1, 2003	:	
Docket No. 16596-002005	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(D)" filed December 11, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 322 days.

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

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

On November 27, 2007, the above-identified application matured into U.S. Patent No. 7,300,650. The instant request for reconsideration was timely filed on December 11, 2007. The patent issued with a revised Patent Term Adjustment of 177 days.

Patentee requests that the Office delay should be increased from 605 days to 750 days. Patentee further requests that the

revised Patent Term Adjustment be corrected from 177 days to 322 days. Specifically, patentee asserts that a period of adjustment of 240 days[1] should be entered for the Office taking in excess of three (3) years to issue the patent. Patentee does not dispute the number of days of patent term reduction under 37 CFR 1.704(b) or adjustment under to 37 CFR 1.702(a)(1) and (a)(2).

The instant patent issued 3 years and 605 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of delay of 605 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 510 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(2). Thus, no additional period of adjustment beyond 605 days was entered. Accordingly, the period of 605 days for Office delay is correct.

In view thereof, the patent term adjustment of **177 days** indicated in the patent is correct.

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

---

[1] It appears that patentee incorrectly used November 27, 2006, as the issue date of the patent instead of November 27, 2007, in reaching their calculation of 240 days.

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

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Zhang et al.	:	
Application No. 10/403,542	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. ORT-1236(DIV)	:	

This is a decision on the petition under 37 CFR 1.181 , filed March 3, 2006.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed August 10, 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 November 11, 2005. A Notice of Abandonment was mailed on February 22, 2006.

The petition to withdraw the holding of abandonment is **DISMISSED AS MOOT** in light of the Technology Center's withdrawal of the Abandonment (February 27, 2006) prior to the rendering of a petition decision.

This application is being forwarded to Art Unit 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

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MAY 27 2004

Gordon & Jacobson, P.C.
65 Woods End Road
Stamford CT 06905

In re Application of	:	
Venkataramana Vijay et al	:	
Serial No.: 10/403,567	:	DECISION ON PETITION
Filed: March 31, 2003	:	
For: Condensed Perfusion Circuit for	:	
Cardiopulmonary Bypass and Cardioplegia	:	

This is in response to the petition applicant filed on April 21, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact 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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In re Patent No. 6852280
Issue Date: February 8,2005
Application No. 10403567
Filed: March 31,2003
Attorney Docket No. VIJ-002A

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

This is a decision on the electronic petition, filed February 12,2009 ,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 February 12,2009 . 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.

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)
6852280	2005-02-08	10403567	2003-03-31	VIJ-002A

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/david s jacobson/	Date (YYYY-MM-DD)	2009-02-12
Name	David S. Jacobson	Registration Number	39235

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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St. Onge, Steward, Johnston & Reens, LLC
986 Bedford Street
Stamford CT 06905-5619

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OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Maguire, et al. :
Application No. 10/403,580 :
Filed: March 31, 2003 :
Attorney Docket No. 03921-P0002A :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10, filed September 16, 2003, requesting that the above-identified application be accorded a filing date of March 31, 2003, rather than the presently accorded filing date of March 17, 2003.

Petitioner alleges that the application was deposited in Express Mail service on March 31, 2003. A copy of Express Mail label No. EL550087365US accompanies the petition. The same Express Mail label number was placed on the original application papers located in the official file. The Express Mail label contains a date-in of March 17, 2003. However, in support of petitioner's allegation, petitioner submitted a copy of a computer printout from the United States Postal Service Track and Confirm Database. The printout indicated that the USPS accepted a package bearing Express Mail label No. EL550087365US on March 31, 2003, at 4:33 pm in Stamford, CT 06905.

In view of the above, the petition is **granted**. No petition fee is necessary. Accordingly, the $130.00 petition fee will be refunded to Deposit Account No. 19-4516, as authorized.

This application will be accorded a filing date of March 31, 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

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DAVIDSON DAVIDSON & KAPPELL, LLC
14TH FLOOR
485 SEVENTH AVENUE
NEW YORK, NY 10018

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Michael Callahan	:
Application No. 10/403,651	:
Filed: March 31, 2003	:
Attorney Docket No. 262.1004US	:

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 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 June 28, 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 September 29, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on April 4, 2005 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 Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3635 for further processing.

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

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WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON, DC 20006

In re Patent No.	:	
6,779,789	:	
Application No. 10/403,664	:	DECISION GRANTING PETITION
Filing Date: March 31, 2003	:	
Issue Date: August 24, 2004	:	
Attorney Docket No. 90767-4100	:	

This is a decision on the petition under 37 CFR 1.182, filed August 3, 2006, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted.**

The file record discloses that the instant application matured into U.S. Patent No. 6,779,789 on August 24, 2004. The instant petition requests issuance of a duplicate Letters of Patent because the original Letters of Patent was lost.

In view of the facts set forth in the petition, it is concluded that the Letters of Patent were lost. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to 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 Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD/ST 8C32, (Fax 571-273-9756)

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HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
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SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of
Kircher et al.
Application No. 10/120,794
Filed: April 12, 2002
Attorney Docket No. 56325.000004

In re Application of
Kircher et al.
Application No. 10/403,665
Filed: November 8, 2002
For: PERFORATED DECKING

DECISION GRANTING PETITION

This is a decision on the PETITION TO TREAT CONTINUING PROSECUTION APPLICATION AS REGULAR CONTINUATION APPLICATION UNDER 37 CFR § 1.182, filed March 3, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of November 8, 2002. This decision is made in light of receipt of the SUBSTITUTE PETITION TO TREAT CONTINUING PROSECUTION APPLICATION AS REGULAR CONTINUATION APPLICATION UNDER 37 CFR § 1.182, filed July 18, 2003.

On April 12, 2002, application No. 10/120,794 was filed. On May 8, 2002, a Notice to File Missing Parts of Application was mailed to applicants. In response, and prior to the mailing of any Office actions, on November 8, 2002, applicants filed a request for a CPA under 37 CFR § 1.53(d) based on application No. 10/120,794. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

Furthermore, Continued Examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed. On November 8, 2002, prosecution in application No. 10/120,794 was not closed. The instant petition precedes the mailing of a Notice of Improper Request For Continued Examination (RCE). Moreover, applicants have filed no other reply to the Notice to File Missing Parts of Application mailed May 8, 2002.

On March 3, 2003, applicants filed the present petition. Applicants stated that the application was inadvertently labeled as a CPA, and indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). On July 18, 2003, applicants submitted a complete copy of the prior application as originally filed (without declaration), and a preliminary amendment[1].

The petition is <u>granted</u>.

The application under 37 CFR 1.53(b) filed on November 8, 2002, using the application papers submitted on July 18, 2003, has been assigned application No. 10/403,665. The CPA request and papers filed therewith, the present petition, the copy of the application as originally filed, and the preliminary amendment have been removed from the file of application No. 10/120,794 and have been placed in application No. 10/403,665. A copy of the CPA request and the present petition will be retained in application No. 10/120,794 to complete the record therein.

All future correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/403,665, <u>not application No. 10/120,794.</u>

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[1] With the request for a CPA filed November 8, 2002, applicants submitted what was a specification and a preliminary amendment. However, a review of the papers reveals that the specification was not a true copy of the specification as originally filed. Accordingly, upon review of the petition, it was requested that applicants complete their petition by filing a true copy of the prior application as originally filed.

Since a response to the Notice to File Missing Parts has not been filed, application No. 10/120,794 is abandoned.

The Office finance records will be corrected to show that the $740.00 filing fee and the additional claim fees totaling $378.00, paid on November 8, 2002, were paid in application No. 10/403,665, not in application No. 10/120,794. Receipt of the $130.00 petition fee is acknowledged.

Receipt of the preliminary amendment filed February 26, 2004 is acknowledged.

Receipt of the supplemental Information Disclosure Statement filed February 20, 2004 is acknowledged.

Application No. 10/120,794 will be forwarded to the Office of Initial Patent Examination for processing as an abandoned application.

Application No. 10/403,665 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of November 8, 2002, using the copy of the original application papers submitted on July 18, 2003.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson (703)305-0309.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MAY 2 7 2005

OFFICE OF PETITIONS

David J. Cross
51 Animas
San Miguel de Allende
Guanajuato, Mexico 37700

In re Application of :

John T. Henning, David J. Cross, Bert Y. Culpepper, :
and Timothy G. Kircher :
Application No. 10/403,665 :
Filed: November 8, 2002 :
Attorney Docket No. 56325.000004 :
Title: PERFORATED DECKING :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

Dear Mr. Cross:

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, the attorney of record 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) 272-3225. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski

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

cc: Christopher C. Campbell, Esq.
HUNTON & WILLIAMS
1900 K Street, N.W.
Washington DC 20006-1109

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Paper No. None

Christopher C. Campbell, Esq.
HUNTON & WILLIAMS
1900 K Street, N.W.
Washington DC 20006-1109

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
John T. Henning, David J. Cross, Bert Y.	:	DECISION ON PETITION
Culpepper, and Timothy G. Kircher	:	UNDER 37 C.F.R. §1.47(a)
Application No. 10/403,665	:	
Filed: November 8, 2002	:	
Attorney Docket No. 56325.000004	:	
Title: PERFORATED DECKING	:	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed March 21, 2005.

On November 8, 2002, the application was deposited, identifying John T. Henning, David J. Cross, Bert Y. Culpepper, and Timothy G. Kircher as joint inventors. No oath or declaration was included on filing. On August 20, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the petition fee, the associated surcharge, a declaration which has been executed by Messrs. Henning and Culpepper, the last-known

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

addresses of the non-signing inventors, and copies of letters which were sent to the same. Petitioner has further included a five-month extension of time to make timely this response.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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OFFICE OF PETITIONS

RAININ INSTRUMENT, LLC
7500 EDGEWATER DRIVE
OAKLAND, CA 94621-3027

In re Patent No. 6,745,636 :
Issue Date: June 8, 2004 :
Application No. 10/403,672 : NOTICE
Filed: March 31, 2003 :
Attorney Docket No. O1R-1-1 :

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) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of
John Alsobrook, David
Anderson, Ferenc Boldog,
Catherine E. Burgess, Stacie
Casman, Shlomit R. Edinger,
Valerie Gerlach, William
Grosse, Xiaojia Guo, Vladimir
Gusev, Weizhen Ji, William
Larochelle, **Denise Lepley**, Li
Li, Xiaohong Liu, John R.
MacDougall, Uriel M.
Malyankar, Isabell Millet,
Muralidhara Padigaru, Meera
Patturajan, John A. Peyman,
Luca Rastelli, Daniel Rieger,
Mark E. Rothenberg, Richard
Shimkets, David J. Stone,
Raymond Taupier, Corine Vernet
and Bryan D. Zerhusen
Application No. 10/403,676
Filed: March 31, 2003
For: THERAPEUTIC POLYPEPTIDES,
NUCLEIC ACIDS ENCODING SAME,
AND METHODS OF USE

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed March 30, 2004.

The petition is **granted**.

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

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

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OFFICE OF PETITIONS

In re Application of
John Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, William Larochelle, Denise Lepley, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, Luca Rastelli, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and **Bryan D. Zerhusen**
Application No. 10/403,676
Filed: March 31, 2003
For: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed March 30, 2004.

The petition is **granted**.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of :
John Alsobrook, David Anderson, :
Ferenc Boldog, Catherine E. : DECISION REFUSING STATUS
Burgess, Stacie Casman, Shlomit R. : UNDER 37 CFR 1.47(a)
Edinger, Valerie Gerlach, William :
Grosse, Xiaojia Guo, Vladimir
Gusev, Weizhen Ji, William
Larochelle, **Denise Lepley**, Li Li,
Xiaohong Liu, John R. MacDougall,
Uriel M. Malyankar, Isabell Millet,
Muralidhara Padigaru, Meera
Patturajan, John A. Peyman, Luca
Rastelli, Daniel Rieger, Mark E.
Rothenberg, Richard Shimkets, David
J. Stone, Raymond Taupier, Corine
Vernet and Bryan D. Zerhusen
Application No. 10/403,676
Filed: March 31, 2003
For: THERAPEUTIC POLYPEPTIDES,
NUCLEIC ACIDS ENCODING SAME, AND
METHODS OF USE

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed January 13, 2004.

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 31, 2003 without an executed oath or declaration and naming John

Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, William Larochelle, **Denise Lepley**, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, Luca Rastelli, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and Bryan D. Zerhusen as joint inventors.

Accordingly, on June 4, 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 September 30, 2003, a petition under 37 CFR 1.47(a) for non-signing inventor **Denise Lepley** was submitted. This petition was dismissed on November 13, 2003. In response, the instant request for reconsideration was submitted.

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

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), applicant states the non-signing inventor, **Denise Lepley**, has refused to sign the declaration. However, the documentation submitted indicates, that while the application and declaration were sent to the non-signing inventor, they were not received or refused by the non-signing inventor and were returned. As such, it appears the non-signing inventor cannot be located.

If the non-signing inventor cannot be reached, applicant must show that a diligent effort has been made to locate the non-

signing inventor. If these efforts to locate the inventor fail, then applicant will have established that the non-signing inventor cannot be reached. See MPEP 409.03(d) "INVENTOR CANNOT BE REACHED."

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
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

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

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The above-identified application was filed on March 31, 2003 without an executed oath or declaration and naming John

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Accordingly, on June 4, 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 September 30, 2003, a petition under 37 CFR 1.47(a) for non-signing inventor **Bryan D. Zerhusen** was submitted. This petition was dismissed on November 13, 2003. In response, the instant request for reconsideration was submitted.

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

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
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> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
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> (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), applicant states the non-signing inventor has refused to sign the declaration. However, the documentation submitted indicates, that while the application and declaration were sent to the non-signing inventor, they were not received or refused by the non-signing inventor and were returned. As such, it appears the non-signing inventor cannot be located.

If the non-signing inventor cannot be reached, applicant must show that a diligent effort has been made to locate the non-signing inventor. If these efforts to locate the inventor fail, then applicant will have established that the non-signing

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Application No. 10/403,676
Filed: March 31, 2003
For: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed January 13, 2004.

The petition is **granted**.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

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OFFICE OF PETITIONS

In re Application of
John Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, **Weizhen Ji**, William Larochelle, Denise Lepley, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, Luca Rastelli, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and Bryan D. Zerhusen
Application No. 10/403,676
Filed: March 31, 2003
For: THERAPEUTIC POLYPEPTIDES, NUCLEIC ACIDS ENCODING SAME, AND METHODS OF USE

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration of "Petition Under 37 CFR 1.47(a)," filed January 13, 2004.

The petition is **granted**.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
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Paper No. 12

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OFFICE OF PETITIONS

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Application No. 10/403,676
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METHODS OF USE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 30, 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 31, 2003 without an executed oath or declaration and naming John Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, William Larochelle, Denise Lepley, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, **Luca Rastelli**, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and Bryan D. Zerhusen as joint inventors.

Accordingly, on June 4, 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 September 30, 2003, the instant petition for non-signing inventor **Luca Rastelli** was submitted.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) as set forth above.

Applicant states a declaration in support of the instant petition signed by an Administrative Assistant in the Intellectual Property Office of CuraGen Corporation, an employment agreement and copies of correspondence with non-signing inventor **Luca Rastelli** were submitted with the instant petition. As search of the application file cannot locate the aforementioned documents submitted in support of the instant petition. Petitioner's "Transmittal Letter" does not appear to indicate the submission of these documents with the instant petition on September 30, 2003. As such, it has not been shown that the non-signing

inventor has received a copy of the application and declaration and did not respond to, or expressly refused, requests to sign the declaration.

Accordingly, the petition must be dismissed at this time.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

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

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Paper No. 13

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OFFICE OF PETITIONS

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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 31, 2003 without an executed oath or declaration and naming John Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, **Weizhen Ji**, William Larochelle, Denise Lepley, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, Luca Rastelli, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and Bryan D. Zerhusen as joint inventors.

Accordingly, on June 4, 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 September 30, 2003, the instant petition for non-signing inventor **Weizhen Ji** was submitted.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) as set forth above.

Applicant states a declaration in support of the instant petition signed by an Administrative Assistant in the Intellectual Property Office of CuraGen Corporation, an employment agreement and copies of correspondence with non-signing inventor **Weizhen Ji** were submitted with the instant petition. As search of the application file cannot locate the aforementioned documents submitted in support of the instant petition. Petitioner's "Transmittal Letter" does not appear to indicate the submission of these documents with the instant petition on September 30, 2003. As such, it has not been shown that the non-signing

inventor has received a copy of the application and declaration and did not respond to, or expressly refused, requests to sign the declaration.

Accordingly, the petition must be dismissed at this time.

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Paper No. 15

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Accordingly, on June 4, 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 September 30, 2003, the instant petition for non-signing inventor **Bryan D. Zerhusen** was submitted.

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

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
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> (3) the petition fee; and
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> (4) a statement of the last known address of the non-signing inventor.

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Applicant states a declaration in support of the instant petition signed by an Administrative Assistant in the Intellectual Property Office of CuraGen Corporation, an employment agreement and copies of correspondence with non-signing inventor **Bryan D. Zerhusen** were submitted with the instant petition. As search of the application file cannot locate the aforementioned documents submitted in support of the instant petition. Petitioner's "Transmittal Letter" does not appear to indicate the submission of these documents with the instant petition on September 30, 2003. As such, it has not been shown that the non-signing

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Paper No. 14

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This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 30, 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 31, 2003 without an executed oath or declaration and naming John Alsobrook, David Anderson, Ferenc Boldog, Catherine E. Burgess, Stacie Casman, Shlomit R. Edinger, Valerie Gerlach, William Grosse, Xiaojia Guo, Vladimir Gusev, Weizhen Ji, William Larochelle, **Denise Lepley**, Li Li, Xiaohong Liu, John R. MacDougall, Uriel M. Malyankar, Isabell Millet, Muralidhara Padigaru, Meera Patturajan, John A. Peyman, Luca Rastelli, Daniel Rieger, Mark E. Rothenberg, Richard Shimkets, David J. Stone, Raymond Taupier, Corine Vernet and Bryan D. Zerhusen as joint inventors.

Accordingly, on June 4, 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 September 30, 2003, the instant petition for non-signing inventor **Denise Lepley** was submitted.

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

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
>
> (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
>
> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) as set forth above.

Applicant states a declaration in support of the instant petition signed by an Administrative Assistant in the Intellectual Property Office of CuraGen Corporation, an employment agreement and copies of correspondence with non-signing inventor **Denise Lepley** were submitted with the instant petition. As search of the application file cannot locate the aforementioned documents submitted in support of the instant petition. Petitioner's "Transmittal Letter" does not appear to indicate the submission of these documents with the instant petition on September 30, 2003. As such, it has not been shown that the non-signing

inventor has received a copy of the application and declaration and did not respond to, or expressly refused, requests to sign the declaration.

Accordingly, the petition must be dismissed at this time.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

HOWARD & HOWARD
ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER,
SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

COPY MAILED

DEC 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,888,451	:	
Ronald Plantan	:	DECISION ON REQUEST FOR
Issue Date: May 3, 2005	:	RECONSIDERATION OF
Application No. 10/403,693	:	PATENT TERM ADJUSTMENT
Filed: March 31, 2003	:	and
Atty Docket No. 60,520-228	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "RECONSIDERATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN ACCORDANCE WITH 37 C.F.R. § 1.705(d)," filed July 1, 2005. Patentee requests that the patent term adjustment indicated in the patent be corrected from thirty-one (31) days to one hundred fifty-one (151) days.

The request for reconsideration of patent term adjustment 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 one hundred fifty-one **(151)** days.

On May 3, 2005, the application matured into U.S. Patent No. 6,888,451, with a revised patent term adjustment of 31 days.

On July 1, 2005, patentee 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 151 days. Patentee disputes the reduction of 120 days for the filing of an Information Disclosure Statement (IDS) on August 24, 2004, after the mailing of the notice of allowance on August 2, 2004. In effect, patentee asserts that the filing of this IDS falls within the exception under § 1.704(d).

Pursuant to 37 CFR § 1.704(c)(10), the filing of a paper, including an IDS, after the mailing of the notice of allowance, is a failure to engage in reasonable efforts to conclude prosecution. However, § 1.704(d) provides 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.

The IDS filed August 24, 2004, did not include a § 1.704(d) statement. However, as to this IDS, an attorney of record now states that:

> In accordance with § 1.704(d), applicant submitted, by express mail, a Supplemental Information Disclosure Statement in compliance with §§ 1.97 and 1.98 on August 24, 2004, and wherein each item of information contained therein was first cited in a communication from a foreign Patent Office (PCT International Search Authority) in a counterpart foreign application and that this communication was mailed on July 26, 2004 and was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the of the Supplemental Information Disclosure Statement.

Under the circumstances of this case, it is concluded that the filing of the August 24, 2004 IDS will not cause a reduction of the PTA. Patentee did not fail to engage in reasonable efforts to conclude prosecution of the application by filing the IDS on August 24, 2004.

In view thereof, the patent should have issued with a patent term adjustment of one hundred fifty-one (151) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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 ONE HUNDRED FIFTY-ONE (151) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6951127
Issue Date: October 4,2005
Application No. 10403702
Filed: March 31,2003
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 13,2009 . 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)
6951127	2005-10-04	10403702	2003-03-31	

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Hongfeng Bi/	Date (YYYY-MM-DD)	2009-11-13
Name	Hongfeng Bi		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

Patent No. : 6,434,763 B2
Inventor(s) : Toshiaki Kawakami
Issued : August 20, 2002
For: DIGITAL TRANSMITTER AND METHOD

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error on the title page, under U.S. Patent documents after the last cited reference was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application and later than the notice of allowance mailed 3/11/02. The IDS was not accompanied by a statement of fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered and the omission of the reference is proper.

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

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or ext.125

Marjama Muldoon
An Intellectual Property Practice
250 South Clinton Street, Suite 300
Syracuse, New York 13202

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/27/07

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/403734** Patent No.: **7135369**

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: Approved as only changing minor informalities not effective scope

SPE

2823
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

JJGJR.: 01-05

Paper No: __

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

DAVID M. SIGMOND
2440 ANDREW DRIVE
SUPERIOR CO 80027

In re Application of
Lin, et al :
Application No. 10/403,736 : DECISION ON PETITION
Filing Date: 31 March, 2003
Attorney Docket No. BDG019 :

This is a decision on the petition filed on 26 November, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 31 March, 2004, for Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 31 March, 2003.

On 12 September, 2003, and on 7 September, 2004, Petitioner informed the Office that he had not received a filing receipt and he requested at each of those times that he be issued a filing receipt.

On 12 November, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 12 November Notice) and indicated that, while a filing date had been granted, it appeared, *inter alia*, that Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification and a fully executed oath/declaration were omitted from the application.

The 12 November Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to ignore the 12 November Notice and accept the application as filed.

In the 26 November, 2004, filing, Petitioner submitted, *inter alia*, the drawings, Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification–which total some 38 sheets of drawings–along with copies of the oath/declaration and of the receipt card.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 31 March, 2003; and
- the receipt card (see: MPEP §503[1]) is date stamped ("3/31/03") and provides, *inter alia*:

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

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

* * *

RETURN POSTCARD

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

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

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

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

* * *

Transmittal (2 pages)
Application (Specification (85 pages), Claims (60 pages), Abstract (1 page), Drawings (178 sheets))
Declaration (3 pages)

* * *

The record further discloses that:

- the 38 sheets of drawings submitted with the petition contain, respectively, Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification;

- the record as it existed prior to the filing of the instant petition contained 140 sheets of drawings–none of which were Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 178 sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the 38 sheets of drawings Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification were submitted on 31 March, 2003, and subsequently were misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived and is refunded to Deposit Account 50-2178; and the Notice mailed on 12 November, 2004, hereby is withdrawn as to the 38 sheets of drawings Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification of the application).

This application is released to the Office of Initial Patent Examination for further processing <u>with a filing date of 31 March, 2003</u>, for the entire application and in particular for the 38 sheets of drawings Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification using:

- pages 1 - 146 (Specification, Claims, Abstract) and 140 sheets of drawings deposited on

---

<u>particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO</u>. (Emphasis supplied.)

31 March, 2003; and

- the 38 sheets of drawings Figs. 25C - 25Q, 26C - 26Q, 27C - 27Q, 28A -29L, 30A - 30L, 31A - 31L, 32A - 32L, and 33 - 37 as described in the specification, and the oath (3 pages) all deposited on 26 November, 2004;

- with direction to OIPE to correct Office records to reflect that 146 pages of specification (description, claims and abstract) and 178 sheets of drawings were present on filing on 31 March, 2003, and forward to Petitioner a corrected filing receipt setting forth a filing date of 31 March, 2003, reflecting therein that 146 pages of specification (description, claims and abstract) and 178 sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

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

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 10/403736

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition			$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [x] Credit Deposit A/C #:

9 V 0 -- 2 1 7 8

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [x] No Fee Due (Explanation):

Paper misplaced by PTO

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Gillo TITLE: Atty

SIGNATURE: [signature] PHONE: 23214

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 2/2/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Gregory Barker	:	
Application No. 10/403,748	:	DECISION GRANTING PETITION
Filed: March 31, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. EMC-03-005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of March 28, 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 2192 to consider the RCE/amendment received on July 10, 2007.

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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Paper No. 5

HEWLETT-PACKARD COMPANY
Intellectual Property
Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of:	
Ruby B. Lee and Dale Morris	
Application No. 10/403,754	DECISION GRANTING
Filed: March 31, 2003	STATUS
Title of Invention: IMAGE MATCHING	UNDER 37 CFR 1.47
USING PIXEL-DEPTH REDUCTION BEFORE	
IMAGE COMPARISON	

This is in response to Petition under 37 C.F.R. 1.47(a) for Application With Non-Signing Coinventor, filed August 20, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Ruby B. Lee, refuses to sign the declaration.

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

The application file is being forwarded to Technology Center Art Unit 2131 for continued processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Ruby B. Lee
55 Etti Circle
Princeton, NJ 08540

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AUG 29 2003

OFFICE OF PETITIONS

In re Application of:
Ruby B. Lee and Dale Morris
Application No. 10/403,754
Filed: March 31, 2003
Title of Invention: IMAGE MATCHING USING PIXEL-DEPTH REDUCTION BEFORE IMAGE COMPARISON

LETTER

Dear Ms. Lee:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 11 2005

OFFICE OF THE DIRECTOR
TC 3600

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive, 32nd Floor
Chicago, Illinois 60606

In re application of
Harris C. Brumfield et al
Application No. 10/403,757
Filed: March 31, 2003
For: SYSTEM AND METHOD FOR GROUP POSITIONING OF MARKET INFORMATION IN A GRAPHICAL USER INTERFACE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on December 7, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

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

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/jwk: 01/04/05

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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JUN 05 2009

OFFICE OF PETITIONS

In re Application of Brumfield et al. Application No. 10/403,757 Filed: March 31, 2003 Attorney Docket No. 02-211-A Title: System and Method For Group Positioning of Market Information in a Graphical User Interface	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed April 30, 2009. This petition is properly treated under 37 CFR §1.705(b). Applicants request that the determination of patent term adjustment be corrected from six hundred and six (606) days to one thousand one hundred eighteen (1118) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

This application for patent term adjustment was filed with the submission of the Issue Fee. The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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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CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

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APR 0 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Dean M. Ponzi	:
Application No. 10/403,765	:
Filed: March 31, 2003	:
Attorney Docket No. 50086/KMO/W112	:

This is a decision on the petition, filed March 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 3763 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : April 4, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Dean M. Ponzi
Application No. :10/403,765
Filed :March 31, 2003

The above-identified application has been assigned Patent No. 6,875,206 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. 6,875,206 to Dean M. Ponzi of California for INJECTION CATHETER WITH CONTROLLABLY EXTENDABLE INJECTION NEEDLE 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, 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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Paper No. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
Lee and Morris
Application No. 10/403,785
Filed: March 31, 2003
Attorney Docket No. 10971659-1
For: VARIABLE REORDERING (MUX) INSTRUCTIONS FOR PARALLEL TABLE LOOKUPS FROM REGISTERS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 2, 2003 (certificate of mailing August 28, 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 Ruby B. Lee, 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 Clifton L. Anderson establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

The application file is being forwarded to Technology Center 2100 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

9/3/04

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

02/06/04

Fleit, Kain, Gibbons, Gutman,
Bongini & Bianco P.L.
551 NW 77th Street
Suite 111
Boca Raton, FL 33487

Dear Applicant:

The Box PGPub replacement drawings for application number 10/403792 received on 01/30/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication, at 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/11/05

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 6785118 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

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

Glenn A. Bechtold — **SPE**

2831 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Kawashima, et al.	:	
Application No. 10/403,825	:	ON REQUEST FOR
Filed: March 31, 2003	:	RECONSIDERATION OF
Attorney Docket Number: 50T5369	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 30, 2009. Applicants believe that the correct total PTA to date is 1879 days, not 1040 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment is acknowledged.

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).

The 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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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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.

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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NOV 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Elmer Lee	:	
Application No. 10/403,850	:	DECISION ON PETITION
Filed: March 31, 2003	:	TO WITHDRAW
Attorney Docket No. 077903-0105	:	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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the applicant of the patent application on May 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. ELMER LEE, PHD, CTO
AXLESHOX, LLC
1772 CENTENNIAL DRIVE
CANTON, MI 48187

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Philipp Koehn	: DECISION ON REQUEST FOR
Patent Number	: 7624005	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/403,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1216** 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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Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Lee & Morris
Application No. 10/403,863
Filed: March 31, 2003
Attorney Docket No. 100204202-1
For: INTRA-REGISTER SUBWORD-ADD INSTRUCTIONS

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

This is in response to the petition under 37 CFR 1.47(a), filed September 4, 2003 (certificate of mailing date September 1, 2003).[1]

The petition is granted.

Petitioner has shown that the non-signing inventor, Ruby B. Lee, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Clifton L. Anderson and accompanying exhibits establish that the inventor was mailed and received the application papers, including the specification, claims and drawings, but failed to respond to numerous requests that she sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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[1] September 1, 2003 is a Federal Holiday and as such, mail is not processed on that date. It is presumed that this correspondence was processed by the USPS on September 2, 2003. September 2, 2003 is prior to the September 3, 2003 deadline for purchasing a one month extension of time to respond to the June 3, 2003 Notice to File Missing Parts of Nonprovisional Application.

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RUBY B. LEE
55 ETTI CIRCLE
PRINCETON NJ 08540

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OCT 09 2003

OFFICE OF PETITIONS

In re Application of
Lee & Morris
Application No. 10/403,863
Filed: March 31, 2003
Attorney Docket No. 100204202-1
For: INTRA-REGISTER SUBWORD-ADD INSTRUCTIONS

LETTER

Dear Ms. Lee:

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: HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/18/07

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction on Patent No.: 7185009

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.

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

Comments:

Does not change the scope of the claim.

APU MOFIZ
SUPERVISORY PATENT EXAMINER
SPE

2161
Art Unit

Attorney Docket No.: N1085-00137
(TSMC 2002-1069)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 7,185,009

Serial No.: 10/403,875

Issued: February 27, 2007

Inventor(s): Hwa-Yu Yang and Shu-Ling Feng

Title: IC FOUNDRY MANUFACTURING TECHNOLOGY MASTER DATA MANAGEMENT STRUCTURE

OK to Enter?

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

mpyo
6/21/07.

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR 1.322)

Dear Sir:

1. Attached is Form PTO/SB/44 wherein the errors occurring in the printed patent are noted by column and line number.

2. The exact pages and line numbers where the language appears in the Examiner's Amendment in the Notice of Allowance of 10/18/2006 are:

Examiner's Amendment 10/18/2006, Claim 16, Page 3, line 5;

Examiner's Amendment 10/18/2006, Claim 16, Page 3, line 10; and

Examiner's Amendment 10/18/2006, Claim 26 (now claim 25), line 1.

3. After reviewing the Notice of Allowance which included Examiner's amendments to the claims, Applicant called the Examiner on October 26 and 27, 2006 to point out the

errors. Although the Examiner inserted the word "storage" in Claim 26 (now Claim 25), he did not indicate the change in Claims 28-32 and 35 (now Claims 26 through 31).

4 These errors were of a clerical nature or character and occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination.

3. The Director is hereby authorized to charge any deificiency or credit any overpayment to Deposit Account No. 04-1679.

4. Please send the Certificate to:

Name: Steven E. Koffs, Esquire
DUANE MORRIS LLP
30 South 17th Street
Philadelphia, Pennsylvania 19103

Respectfully submitted,

Date: June 12, 2007

Russell S. Timm, Ph.D.
Registration No. 55,677

Attorney for Patentee

DUANE, MORRIS LLP
30 South 17th Street
Philadelphia, Pennsylvania 19103
(215) 979-1812 (Telephone)
(215) 979-1020 (Fax)

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. : 7,185,009

APPLICATION NO.: 10/403,875

ISSUE DATE : February 27, 2007

INVENTOR(S) : Hwa-Yu Yang and Shu-Ling Feng

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

Column 11, line 53, delete "and".

Column 11, line 60, after "roadmap" insert -- and --.

Column 12, line 34, delete "Hgh" and insert therefore -- High --.

Column 13, line 28, after "readable" insert -- storage --.

Column 13, line 35, after "readable" insert -- storage --.

Column 14, line 3, after "readable" insert -- storage --.

Column 14, line 10, after "readable" insert -- storage --.

Column 14, line 16, after "readable" insert -- storage --.

Column 14, line 22, after "readable" insert -- storage --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Russell S. Timm, Ph.D., Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/403,885	03/31/2003	1733	1204	57202US012	17	38	2

CONFIRMATION NO. 5523

CORRECTED FILING RECEIPT

OC000000011904120

032692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Date Mailed: 03/08/2004

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)

Jon M. Mack, Boylston, MA;
Kevin M. Hoffman, St. Paul, MN;
John J. Cael, Upton, MA;
Jason W. Balich, Beverly, MA;
Gregory E. Gilligan, Hastings, MN;
James T. Richard, Lake Elmo, MN;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/277,252 10/20/2002
which is a CIP of 10/118,489 04/06/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/26/2003

Projected Publication Date: 05/27/2004

Non-Publication Request: No

Early Publication Request: No

Title

Process for making an intrinsic polarizer

Preliminary Class
428

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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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APR 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Jon M. MACK	:	DECISION ON
Application No. 10/403,885	:	PETITION
Filed: 31 March 2003	:	
Attorney Docket No. M0023/7012P2	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed October 29, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed September 29, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A Notice of Abandonment was mailed on 29 January 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final office action of September 29, 2006 is accepted as having been unintentionally delayed.

Technology Center AU 1732 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed October 29, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3276.

Rafael Bacares
Petitions Attorney
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 3700.

OCT 2 0 2004

#4

Wayne O. Stacy
155 West 68th Street, Ste. 523
New York, NY 10023

In re Application of	:
GREEN	:
Serial No.10/403,886	: Decision on
Filed April 1, 2003	: Petition
For: Garment Secured by Lock and	:
Garment Closure System and Method	:

A Notice of Abandonment for the above-identified application was mailed February 23, 2004. Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on April 22, 2004. In the petition applicant provides a copy of the amendment filed October 22, 2003, a copy of the express mail receipt dated October 22, 2003 and a copy of a cancelled check, stamped as received by USPTO on October 27, 2003.

In view of the above, the Notice of Abandonment mailed February 23, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

John E. Kittle, Director
Groups 3730 & 3760
Phone: (703) 308-0873
Fax: (703) 305-3590

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AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Sriram Natarajan, et al. :
Application No. 10/403,896 : ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. CISCP824 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2007.

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

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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

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

By Mail: Mail Stop PETITION
Commissioner for Patents
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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/403,896	Applicant(s) NATARAJAN ET AL.
	Examiner NITTAYA JUNTIMA	Art Unit 2416

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

THE REPLY FILED 31 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-17 and 21-27*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

BRENDA PHAM
PRIMARY EXAMINER
Brenda H Pham 1/29/09

Continuation of 3. NOTE: The amendments made to claims 1, 8, 15, and 21 raise new issues that would require further search and/or consideration.

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Sriram Natarajan, et al. :
Application No. 10/403,896 :
Filed: March 31, 2003 :
Attorney Docket No. 0370.0741C :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

Telephone inquiries concerning this decision should be directed to the 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 2416 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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
10/403,896	03/31/2003	Sriram Natarajan	0370.0741C

CONFIRMATION NO. 5519

POA ACCEPTANCE LETTER

OC000000035260167

27896
EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Date Mailed: 04/01/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Robert J. Crawford
Crawford Maunu PLLC
1270 Northland Drive
Suite 390
St Paul, MN 55120

COPY MAILED

OCT 15 2003

OFFICE OF PETITIONS

In re Application of
Barraclough
Application No. 10/403,898
Filed: March 27, 2003
Atty. Dkt. No.: 8X8S.224RE
For: REMOTE ELECTROMECHANICAL CONTROL OF A VIDEO COMMUNICATIONS SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the petition under 37 CFR 1.47(b), filed September 16, 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(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 March 27, 2003 without an executed oath or declaration and naming Keith Barraclough as sole inventor. Accordingly, a Notice to File Missing Parts of Reissue Application was mailed May 27, 2003 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to

preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is unacceptable as it has not been executed in accordance with 37 CFR 1.63(a)(1). The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

Any renewed petition must be accompanied by a properly executed oath or declaration.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: U.S. (FedEx, UPS, DHL, etc.)	Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Robert J. Crawford
Crawford Maunu PLLC
1270 Northland Drive
Suite 390
St Paul, MN 55120

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DEC 19 2003
OFFICE OF PETITIONS

In re Application of Barraclough Application No. 10/403,898 Filed: March 27, 2003 Atty. Dkt. No.: 8X8S.224RE For: REMOTE ELECTROMECHANICAL CONTROL OF A VIDEO COMMUNICATIONS SYSTEM	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed December 15, 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(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 March 27, 2003 without an executed oath or declaration and naming Keith Barraclough as sole inventor. Accordingly, a Notice to File Missing Parts of Reissue Application was mailed May 27, 2003 requiring an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(b) was filed September 16, 2003 and dismissed October 15, 2003.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary

interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks item (2) set forth above. An acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is unacceptable. While the declaration has been executed by an authorized representative for assignee, the declaration fails to identify the inventor by name, residence, and citizenship in accordance with 37 CFR 1.63.

Any renewed petition must be accompanied by a properly executed oath or declaration. Petitioner is again reminded that the signature block of the non-signing inventor should remain unexecuted. The declaration should be executed by an authorized representative for assignee. The authorized representative should be identified by name and title beneath the unexecuted signature block of the inventor.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: U.S. Patent and Trademark Office (FedEx, UPS, DHL, etc.)	2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Petitioner is encouraged to contact the undersigned at (703) 305-0310 for any clarification regarding the submission of a proper declaration.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Robert J. Crawford
Crawford Maunu PLLC
1270 Northland Drive
Suite 390
St Paul, MN 55120

COPY MAILED

JAN 29 2004

OFFICE OF PETITIONS

In re Application of	:
Barraclough	: DECISION GRANTING STATUS
Application No. 10/403,898	: UNDER 37 CFR 1.47(b)
Filed: March 27, 2003	:
Atty. Dkt. No.: 8X8S.224RE	:
For: REMOTE ELECTROMECHANICAL	:
CONTROL OF A VIDEO COMMUNICATIONS	:
SYSTEM	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed January 14, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Keith Barraclough either cannot be reached or refused to execute the declaration for 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(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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination ("OIPE") for further processing.

Telephone inquiries concerning the content of this decision may be directed to the undersigned at 703-305-0310 all other inquiries must be directed to OIPE.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

JENNIPHER ADKINS
PO BOX 32121
OAKLAND, CA 94604

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of
Adkins
Application No. 10/403,901
Filed: April 1, 2003
For: INTERNET, CELLULAR BROADCAST PHONE SET AND SOFTWARE

ON PETITION

This decision concerns the April 19, 2004 "Petition for Withdrawal of the Holding [of] Abandonment" which is being properly treated as a petition under 37 CFR 1.181, and the concurrently filed petition under 37 CFR 1.137(b) to revive this application.

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

The application became abandoned on August 26, 2003 for failure to timely respond to the June 25, 2003 "Notice to File Missing Parts of Nonprovisional Application" ("6/25/03 Notice"). Specifically, the 6/25/03 Notice set forth an extendable, non-statutory, 2-month period for submitting the application basic filing fee; a substitute specification in compliance with he line-spacing requirement of 37 CFR 1.52(b); and replacement drawings for Figures 2, 3, 4, 7, and 8 that comply with 37 CFR 1.84 and 1.121.

No response was filed on or before August 25, 2003 and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on August 26, 2003.

The instant petition asserts non-receipt of the 6/25/03 Notice and requests withdrawal of the holding of abandonment in the application.

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1] The showing required to overcome this presumption, in the instant case, consists of:[2]

---

[1] 1156 OG 53 (Oct. 25, 1993). The record shows that the 6/25/03 Notice was mailed on that day to Applicant at the correspondence-address-of-record for this application.

[2] *Id.*

(1) a statement from Applicant:

(A) that she did not receive the 6/25/03 Notice;

(B) attesting, by referencing the docket record in (2) below, that a search of the relevant docket records indicates that the 6/25/03 Notice was not received;

and

(2) a copy of the docket record where the 6/25/03 Notice would have been docketed had it been received.

The §1.181 petition meets the above requirements and is thus **granted**. The holding of abandonment in the instant application is hereby withdrawn.

Consequently, the concurrently filed §1.137(b) petition is **dismissed as moot**.

No petition fee is owed. The $655 petition fee (small entity) enclosed with the petition has been refunded.

Also submitted with the petition are replacement drawings for Figures 2, 3, 4, 7 and 8, and a substitute specification.[3] The drawings were objected to by the draftsperson (see attached Notice of Draftsperson's Patent Drawing Review).

Finally, the $375 application filing fee and the $65 late payment surcharge, both in small entity amounts, were received on August 29, 2003.

The application file is being returned to the Office of Initial Patent Examination for further processing, including re-mailing of a Notice to File Missing Parts of Nonprovisional Application.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review (7/7/04)

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[3] If Applicant had never received the original 6/25/03 Notice, the Office assumes that Applicant subsequently became aware of these requested items through communication(s) with the USPTO. If this is not correct, Applicant must contact this Office in writing upon receipt of this decision.

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United States Patent and Trademark Office
P.O. Box 1450
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MAIL

SEP 21 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Jennipher Adkins
PO BOX 32121
Oakland CA 94604

In re Application of	:	
ADKINS, JENNIPHER Y.	:	DECISION ON PETITION
Application No. 10/403,901	:	TO RESET PERIOD
Filed: April 1, 2003	:	FOR REPLY
For: **INTERNET, CELLULAR BROADCAST PHONE SET AND SOFTWARE**	:	

This is a decision on the petition filed on August 3, 2006, requesting that response period to the Office action mailed on March 24, 2006 be reset due to non-receipt of the Office action.

The petition is **GRANTED.**

Petitioner contends that the Office action was not received or received late. Petitioner states that the Office action was received on July 27, 2006 via facsimile transmission from the Director's secretary.

The three month shortened statutory period is reset to begin as of July 27, 2006. Applicant's response is due on or before October 27, 2006. Extensions of time are available under 37 CFR § 1.136(a).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL N. BEINART
130 HIDDEN RD.
ANDOVER, MA 01810

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Jennipher Y. ADKINS	:	
Application No. 10/403,901	:	DECISION ON PETITION
Filed: April 1, 2003	:	TO WITHDRAW
Attorney Docket No. ADK0801US01		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 7, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were not appointed by Customer Number 72883, as indicated.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JENNIPHER Y. ADKINS
P.O. BOX 32121
OAKLAND, CA 94604

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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ANDOVER, MA 01810

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APR 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Jennipher Y. ADKINS	:	
Application No. 10/403,901	:	DECISION ON PETITION
Filed: April 1, 2003	:	TO WITHDRAW
Attorney Docket No. ADK0801US01	:	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 4, 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 Daniel N. Beinart on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been charged and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JENNIPHER Y. ADKINS
P.O. BOX 32121
OAKLAND, CA 94604

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/15/05

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6880197 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

The corrections should be: Column 2, line 59, delete "opposite an" and insert -- and an opposed --. Column 2, line 63, delete "opposite" and insert -- opposed --.

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE

1744 7/7/6
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,880,197 B2

DATED : April 19, 2005

INVENTOR(S) : Susan Katz and Cheryl Bersano

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

~~Column 2, line 59, insert a comma after the word "and".~~

~~Column 2, line 60, delete "opposite" and substitute --and--.~~

Column 2, line ~~64~~ 63, delete "opposite" and substitute --opposed--.

6,880,197

MAILING ADDRESS OF SENDER: PATENT NO.

James J. Kernell/Chase Law Firm, L.C.
4400 College Boulevard, Suite 130
Overland Park, Kansas 66211

No. of additional copies

0

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

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

MAY 24 2005

DISPOSABLE TOILET CLEANING DEVICE WITH EXTENDABLE HANDLE

BACKGROUND OF THE INVENTION

This invention generally relates to cleaning tools and, in particular, to a toilet cleaning device or tool which is disposable and includes a telescoping handle and an extendable cleaning head.

The typical toilet bowl cleaning device or brush provided in the prior art is made of plastic and is stored next to the toilet in the bathroom in its own storage case or brush hanger. The brush and storage case is typically unsightly and presents the further dilemma of handling the brush after use and cleaning the brush and storage case. A need exists for a toilet bowl cleaning device that does not need to be cleaned and does not require storage after use.

SUMMARY OF THE INVENTION

The present invention includes a handle with an extendable arm and compact cleaning head. The cleaning head may expand upon release from the handle or may be initially dispose outside the handle. The cleaning device handle may be made of cardboard or other disposable material with the head being made of plastic, foam rubber, scouring pad material, nylon or other fibers and/or materials. After use, the cleaning device may be disposed of in a trash receptacle.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a sectional elevational view of the cleaning device of the present invention in the nested position with a brush head;

FIG. 2 is a sectional elevational view of the cleaning device of FIG. 1 shown in the extended position;

FIG. 3 is a partial view of the extendable arm of the cleaning device of FIG. 1 with a flexible neck;

FIG. 4 is a sectional elevational view of the cleaning device of the present invention with a pad cleaning head;

FIG. 5 is a plan view of four cleaning devices each of which are shown in FIG. 1 and are shown reduced in size;

FIG. 6 is a plan view of four cleaning devices each of which are shown in FIG. 4 and are shown reduced in size.

DETAILED DESCRIPTION

Referring to FIGS. 1 and 2, a disposable toilet cleaning device of the present invention is generally indicated by reference numeral 10. Disposable toilet cleaning device 10 includes a handle or outer tube 12, an extendable or telescoping arm 14 and an expandable brush head 16. Handle 12 is generally hollow and tapers from a base portion 18 to an open end 20 opposite the base 18. The hollow cavity 22 of handle 12 is sized to accommodate extendable arm 14 nested therein in the stored position as shown in FIG. 1. Extendable arm 14 is also tapered generally along the same lines as the taper for handle 12. Extendable arm 14 is tapered from its base 24 to its end 26 extending from the open end 20 of handle 12. Generally, the base 24 of extendable arm 14 is wider than the open end 20 of handle 12.

A foldable, self-expanding brush head 16 is secured to the end 26 of extendable arm 14. Brush head 16 includes a plurality of cleaning bristles. The brush head 16 is compressed and at least partially contained within the handle 12 in the stored position as shown in FIG. 1.

Handle 12 may include a locking ridge 28 around its inside diameter extending into cavity 22 positioned near the

open end 20 of handle 12. Similarly, extendable arm 14 may include a locking ridge 30 extending outwardly from its outer diameter positioned near its base 24.

Handle 12 and arm 14 may be made of sturdy cardboard or other disposable material and coated with a wax or plastic film to allow sufficient use when exposed to water or other cleaning chemicals used to clean a toilet before disposing of the toilet cleaning device 10 in a trash receptacle. Brush head 16 may be made of plastic, nylon or other resilient material that provides sufficient strength to be used as a scrub brush.

In operation, the user of the cleaning device 10 pulls and extends the exposed portion of the brush head 16 axially outwardly from handle 12 until the locking ridge 30 of the extendable arm 14 passes over the locking ridge 28 of the handle 12. The outer diameter of the larger end 24 of arm 14 is gripped by the inner diameter near the open end 20 of handle 12. The compressed brush head 16 expands upon being pulled from the handle 12 as shown in FIG. 2. The cleaning device 10 may now be used to clean a toilet. The locking ridges 28 and 30 prevent the expandable arm 14 from retracting back into the handle 12 during use. If locking ridges 28 and 30 are not included, the outside diameter of arm 14 compresses against the inside diameter of handle 12 to securely hold arm 14 in the extended position.

Referring to FIG. 3, an extendable arm 14 may include a flexible neck 32 to allow the brush head 16 to be positioned in many positions to allow the user to clean under the rim of the toilet, for example. The flexible neck 32 may be axially aligned with extendable arm 14 when the disposable cleaning device 10 is in the stored position, and may be repositioned or bent as shown in FIG. 3 when in the extended position.

Referring to FIG. 4, a cleaning or scouring head 17 may be secured to the end 26 of extendable arm 14. Cleaning pad 17 may include a foam rubber sponge on one side and a scouring pad on the opposite side for added versatility. The cleaning head 16 may be fully extended from the handle 12 as shown in FIG. 4 or may be compressed and at least partially contained within the handle 12 in a stored position as the brush head 16 shown in FIG. 1. The cleaning head 17 or brush head 16 may include a toilet cleaning chemical embedded within either of the heads for immediate use without the need for other cleaning supplies.

Referring to FIGS. 5 and 6, the compact design and shape of the disposable toilet cleaning device 10 aids in packaging two or more cleaning devices 10 together for immediate use. The disposable toilet cleaning devices 10 may be alternately positioned head to toe and in multiple layers to conveniently package the disposable cleaning devices 10.

It is to be understood that while a certain form of the present invention has been illustrated and described, it is not limited thereto except insofar as such limitations are included in the following claims.

Having thus described the invention, what is claimed as new and desired to be secured by Letters Patent is:

1. A device for cleaning a toilet comprising:

an elongated generally hollow handle having a first end ~~opposite an~~ open second end, said ends defining a longitudinal axis therebetween, said first end adapted for manually grasping by a user, said handle tapering from said first end to said open second end,

an elongated arm having ~~opposite~~ first and second ends defining a longitudinal axis therebetween, said arm tapering from said first end to said second end, said arm disposed within said hollow handle and slidable

and an opposed

opposed

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

In re Application of Todd Miska	:
	: DECISION GRANTING PETITION
Application No. 10/403932	: TO REMAIL AN OFFICE
Filed: March 31, 2003	: COMMUNICATION AND RESTART
Attorney Docket No. 27853-07	: PERIOD FOR REPLY

This is a decision on the petition filed on December 02, 2003 requesting acceptance of the drawings filed on March 31, 2003.

The petition is moot as no petition was required and the Notice to File Corrected Papers mailed on May 3, 2003 was done in error.

Petitioner provided evidence that the drawings submitted were not in pencil. Said drawings were legible and are deemed acceptable by the patent examiner assigned this case. The originally accepted drawings submitted for the examination of this application are accepted. The $130 petition fee will be refunded.

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

MAILED

APR 21 2009

OFFICE OF PETITIONS

In re Application of
Naveen Aerrabotu et al
Application No. 10/403,946
Filed: March 31, 2003
Attorney Docket No. CS22810RL

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 17, 2008, is accepted as having been unintentionally delayed.

Petitioner should be aware that no terminal disclaimer is required for utility/patent applications filed on or after June 8, 1995.

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

RANDALL S. VAAS
600 NORTH US HIGHWAY 45
LIBERTYVILLE, ILLINOIS 60048

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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JAN 08 2004
OFFICE OF PETITIONS

In re Application of :
Ruby B. Lee :
Application No. 10/403,977 : DECISION REFUSING STATUS
Filed: 31 March, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 10971660-1 :

This is in response to the petition filed on 2 September, 2003, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 31 March, 2003, without an executed oath or declaration. Accordingly, on 29 May, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an oath or declaration and a surcharge for its late filing, a two (2) month period for reply was set.

In response, on 2 September, 2003 (certificate of mailing date 29 August, 2003), petitioners filed the present petition, accompanied by a one (1) month extension of time, and a declaration naming Ruby B. Lee as the sole inventor and signed on behalf of the non-signing inventor by registered patent attorney David A. Plettner. Attorney Pletter has stated in the declaration that he is authorized to sign the declaration on behalf of Rule 47(b) applicant, as provided in MPEP 409.03(b). Petitioners assert that a copy of the application was sent to inventor Lee, but that she has refused to sign the declaration unless paid more money than Rule 47(b) applicant has agreed to pay her.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (6).

In regards to item (6), petitioners must establish irreparable damages in accordance with MPEP 409.03(g). A statement by applicant that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties is sufficient.

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

2121

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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FEB 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Ruby B. Lee	:	
Application No. 10/403,977	:	DECISION ACCORDING STATUS
Filed: 31 March, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 10971660-1	:	

This is in response to the renewed petition filed on 20 January, 2004, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioners have shown that a copy of the application was sent to the non-signing inventor. The inventor, however, has failed to sign and return the declaration naming her as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the "California Employee Invention Agreement" between the nonsigning inventor and assignee Hewlett-Packard Company. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage. period for reply was set.

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. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries regarding this communication 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
DIW 02-04

Ruby B. Lee
55 Etti Circle
Princeton NJ 08540

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FEB 17 2004

OFFICE OF PETITIONS

In re Application of
Ruby B. Lee
Application No. 10/403,977
Filed: 31 March, 2003
For: PARALLEL SUBWORD INSTRUCTIONS FOR DIRECTING RESULTS TO SELECTED SUBWORD LOCATIONS OF DATA PROCESSOR RESULT REGISTER

Dear Ms. Lee:

You are named as a joint 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 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).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
Lee and Morris
Application No. 10/403,978
Filed: March 31, 2003
Attorney Docket No. 200207049-1
For: COMPARE-PLUS-TALLY INSTRUCTIONS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 2, 2003 (certificate of mailing August 28, 2003). Petitioner obtained a one-month extension of time. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner has shown that Ruby B. Lee, 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 Clifton L. Anderson establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

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

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

The application file is being forwarded to Technology Center 2100 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604-2701

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward Geraghty, et al.	:	
Application No. 10/403,985	:	DECISION GRANTING
Filed: March 31, 2003	:	PETITION
Attorney Docket No. 20013.000250/PO2424	:	

This is a decision on the petition filed August 6, 2004, requesting that the above-identified application be accorded a filing date of March 31, 2003, rather than the presently accorded date of August 22, 2003. The petition is being treated as a petition under 37 CFR 1.181.

Petitioner avers that the application was deposited in Express Mail Service on March 31, 2003. In support, the petition is accompanied by a copy of Express Mail receipt No. ER013162143US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 31, 2003.

A review of the file record shows that a "Notice to File Missing Parts of Nonprovisional Application" was mailed to applicant on May 28, 2003, which set forth a two (2) month period for reply. Accordingly, a reply was sent on August 22, 2003. As a result, the Office inadvertently accorded a filing date of August 22, 2003, the date the reply was received, to the application. The Office sincerely apologizes for this error and any inconvenience to petitioner is regretted.

In view of the above, the filing date of this application will be returned to its original date, March 31, 2003.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **March 31, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3223. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
BUCK, Marshall D.	:	
Application No. 10/404,006	:	DECISION ON PETITION
Filed: March 31, 2003	:	TO WITHDRAW
Attorney Docket No. **001701/0080**	:	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 17, 2008.

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

A review of the file record indicates that the power of attorney to WADDEY & PATTERSON, P.C. has been revoked by the assignee of the patent application on March 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **STROOCK & STROOCK & LAVAN LLP**
180 MAIDEN LANE
NEW YORK NY 10038

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

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AUG 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Radhakrishnan Subramaniam et al
Application No. 10/404,008
Filed: March 31, 2003
Attorney Docket No. U 014517-7

This is a decision on the petition under 37 CFR 1.313(c), filed August 10, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1711 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

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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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MAIL

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WOODSIDE IP GROUP
P.O. BOX 61047
PALO ALTO CA 94306

In re Application of:
BRENNAN, MICHAEL T. et al
Application Serial No.: 10/404,034
Filed: April 02, 2003
For: **BRACKET SYSTEM AND METHOD FOR USE WITH REMOTE-READING WATER METERS**

DECISION
ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181, filed on July 2, 2003 requesting the reconstruction of the patent application file.

The office regrets the delay in addressing this matter. A review of the record reveals that the application is currently available electronically in Private PAIR and is currently available for review and examination electronically.

Accordingly, the petition to reconstruct the file from applicant's file is **Dismissed as Moot**.

The instant application is being forwarded to the examiner for action on the merits in due course.

Michael Hornbik
Quality Assurance Specialist
Technology Center 2600
Communications

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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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In re Application of	:	
Philip M. Ginsberg et al.	:	
Application No. 10/404,043	:	DECISION ON PETITION
Filed: April 2, 2003	:	TO WITHFRAW
Attorney Docket No. 00-1020-C1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed February 19, 2008.

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

A review of the file record indicates that the power of attorney to Ropes & Gray LLP has been revoked by the assignee of the patent application on May 2, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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MCANDREWS HELD & MALLOY
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of :
Alexander G. Macinnis :
Application No. 10/404,074 : ON PETITION
Filed: April 1, 2003 :
Attorney Docket No. 13390US02 :

This is a decision on the petition, filed August 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2182 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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VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON, VA 22201-2909

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MAR 2 5 2009

OFFICE OF PETITIONS

In re Application of Moore et al. :
Application No. 10/404,111 : Decision on Petition
Filing Date: April 2, 2003 :
Attorney Docket No. CDR02013 :

This is a decision on the petition under 37 CFR 1.181 filed November 24, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

On January 25, 2008, Petitioner filed a Notice of Appeal and a "Pre-Appeal Brief Request for Review." Both documents are in the Office's file folder for this application.

On October 9, 2008, the Office mailed a Notice of Abandonment stating the application is abandoned because of Petitioner's "failure to timely file an Appeal Brief or Request for Continued Examination after the expiration of the time period for reply."

When a Pre-Appeal Brief Request for Review is filed, the extendable time period for filing an appeal brief (or RCE) is the longer of one month from the mailing date of a decision on the request or two months after the filing of a Notice of Appeal. *See* New Pre-Appeal Brief Conference Program, 1296 *Off. Gaz. Pat. Office* 67 (July 12, 2005).

The Office has not issued any decision on the request filed January 25, 2008. Therefore, the time period to file an appeal brief has not expired and the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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 who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 2141 will be informed of the instant decision and the TC Art Unit will mail a decision on the Pre-Appeal Brief Request for Review 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

cc: Errol A. Krass
918 Prince Street
Alexandria, VA 22314

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PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Moore et al.	:	
Application No. 10/404111	:	
Filing or 371(c) Date: 04/02/2003	:	ON PETITION
Attorney Docket Number:	:	
CDR02013	:	

This is a decision on the Petition under 37 CFR 1.137(b), filed March 11, 2010, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Panel Decision from Pre-Appeal Brief Review ("Notice"), mailed May 1, 2009. The Notice set a one (1) month period for applicant to file an appeal brief. Extensions of time were available under 37 CFR 1.136. No reply having been filed, the application became abandoned June 2, 2009. A Notice of Abandonment was mailed November 12, 2009.

Applicant files the present petition and an Appeal Brief. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes (1) the reply in the form of an Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed. The Appeal is reinstated. Accord MPEP 1215.04.

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

The application is being referred to Technology Center Art Unit 2454 for processing of the Appeal Brief.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

CC: DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:05162006

DATE : May 16, 2006

TO SPE OF : ART UNIT 3654

SUBJECT : Request for Certificate of Correction on Patent No.: 6,948,677

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:

Kathy Matecki

KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE: Katherine Matecki **Art Unit** 3654

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Eric K. Mangiardi	: DECISION ON REQUEST FOR
Patent Number	: 7637934	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/404,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 20050118

Applicant : Knobloch, Charles S.
Appl No.: 10/404,208
Filed: March 31, 2003

DECISION GRANTING PETITION UNDER *37 CFR 1.84*

This decision is in response to the petition filed March 31, 2003 in the above-identified application. Petitioner requests that color drawings be accepted in accordance with 37 C.F.R. 1.84.

The petition states that color drawings of Figures 3, 4, 5, and 6 are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84(a)(2) in that it was accompanied by (1) the appropriate fee and (2) three sets of color drawings. The specification further includes the required text language set forth in 37 C.F.R. 1.84 (a)(2)(iii).

The papers filed on March 31, 2003 fulfill the requirements set forth in 37 C.F.R. 1.84(a)(2) and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

Cheryl S. Ratcliffe
ConocoPhillips Company
P.O. Box 4783
Houston TX 77210-4783

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Paper No. 6

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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JAN 0 6 2004

OFFICE OF PETITIONS

In re Application of	:
DePetrillo, Heden, McGuire, and Bar-Gadda	:
Application No.: 10/404,216	: DECISION ACCORDING
Filed: March 3, 2003	: RULE 47(a) STATUS
Attorney Docket No: RONA,001US3CIP	:
For: REMOTE ICP TORCH FOR SEMICONDUCTOR	:
PROCESSING	:

This is in response to the petition under 37 CFR 1.47(a), filed December 4, 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 31, 2003, but was not accompanied by a declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on July 25, 2003, requiring an properly executed declaration and a $130.00 surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On December 4, 2003, the instant petition was filed along with a request for an extension of time within the third month, and other documentary evidence.

Petitioner has shown that inventor Bar-Gadda has 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.

Petitioner was charged twice for the extension of time within the third month—once by check and again by deposit account. Petitioner will, therefore, be refunded $475.00, in due course.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronny Bar-Gadda
121 Monroe Drive
Palo Alto, CA 94306

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JAN 0 6 2004

OFFICE OF PETITIONS

In re Application of
DePetrillo, Heden, McGuire, and Bar-Gadda :
Application No. 10/404,216 :
Filed: March 3, 2003 : LETTER
Attorney Docket Number: RONA,001US3CIP :
For: REMOTE ICP TORCH FOR SEMI- :
CONDUCTOR PROCESSING :

Dear Mr. Bar-Gadda:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Martine & Penilla, LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,715,901	2004-04-06	10/404,217	2003-03-31	GOAP0002USA

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

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2009-03-11
Name	Winston Hsu	Registration Number	41526

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

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

In re Patent No. 6715901
Issue Date: April 6,2004
Application No. 10404217
Filed: March 31,2003
Attorney Docket No. 087929-000000US

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

This is a decision on the electronic petition, filed March 11,2009 ,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 March 11,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Agilent Technologies, Inc.
Legal Department, DL 429
Intellecutal Property Administration
P.O. Box 7599
Loveland, CA 80537-0599

COPY MAILED

SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of Tan and Aik Application No. 10/404,218 Filed: March 31, 2003 Attorney Docket No. 70020688-1 For: Compound Display	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 4, 2003.

The petition is granted.

Petitioner has shown that Justin Lim Hwa Aik, 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 Calvin B. Ward, 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.

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 forwarded to Technology Center 2800 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

REFLECTIVITY, INC.
350 POTRERO AVENUE
SUNNYVALE, CA 94085

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of
Andrew Huibers
Application No. 10/404,221
Filed: March 31, 2003
Attorney Docket No.:P89-US

ON PETITION

This is a decision on the petition filed August 4, 2003, requesting in effect, that a Notice of Omitted Parts in a Nonprovisional Application ("Notice") mailed June 2, 2003, be withdrawn.

The application was filed on March 31, 2003. However, on June 2, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of March 31, 2003 but figures 1, 2A-B, 3A-B, 4A-B, 5-7 described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 5 pages of drawings which included figures 1, 2A-B, 3A-B, 4A-B, 5-7 as described in the specification was filed on March 31, 2003. In support, the petition is accompanied by a copy of applicant's return postcard which lists 5 pages of drawings. The petition is further accompanied by a 5 pages of drawings including figures 1, 2A-B, 3A-B, 4A-B, 5-7.

Applicant's postcard receipt is prima facie evidence that 5 pages of drawings were received on March 31, 2003, but 5 pages including figures 1, 2A-B, 3A-B, 4A-B, 5-7 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 5 pages of drawings including figures 1, 2A-B, 3A-B, 4A-B, 5-7 1 of the specification was received on March 31, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The petition fee of $130.00 is being credited to deposit account 50-1516.

Since the 5 pages of drawings including figures 1, 2A-B, 3A-B, 4A-B, 5-7 of the original disclosure cannot be located in the Office, the 5 pages of figures including figures 1, 2A-B, 3A-B, 4A-B, 5-7 supplied on August 4, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 31, 2003, using the substitute 5 pages of drawings including figures 1, 2A-B, 3A-B, 4A-B, 5-7 as described in the specification supplied on August 4, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT - 9 2003

UR
PAPER NO. 5

In re Application of Richard B. Sherwin Serial Number10/404,245 Filed: April 01, 2003 For: METHOD AND APPARATUS FOR COOKING POULTRY AND FOWL	: : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed June 04, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(c).

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

The petition is **GRANTED.**

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

MERONI + MERONI
P.O. BOX 309
Barrington, IL 60011

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTHONY H. AZURE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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MAY 02 2008

OFFICE OF PETITIONS

In re Application of	:	
Vincent J. Zimmer et al	:	
Application No. 10/404,255	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 42P16105	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 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 December 27, 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 March 28, 2007.

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

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

This matter is being referred to Technology Center AU 2115 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

OCT 03 2003

OFFICE OF PETITIONS

In re Application of
Neil S. Wester
Application No. 10/404,272
Filed: March 31, 2003
Attorney Docket No. 42P13748
For: ELECTRON EXPOSURE TO REDUCE LINE EDGE ROUGHNESS

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

This is in response to the petition under 37 CFR 1.47(b), filed July 28, 2003.

The petition is dismissed.

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

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 (6) set forth above.

As to item (1), petitioner must establish that the non-signing inventor refused to sign the oath or declaration after being presented with the application papers. Petitioner has failed to establish that the non-signing inventor was presented with a copy of the application. An inventor cannot sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. Refusal within the meaning of 37 CFR 1.47 requires that the inventor be presented with the application papers and given adequate time to review the contents of the application. Until the inventor reviews the papers and reads the specification and claims, he cannot know if he is actually an inventor of the claimed invention. Petitioner should send a copy of the application to the inventor along with instructions setting a deadline and a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified

mail return receipt, cover letter of instructions, telegram, etc.
Petitioner should note that when there is an express oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. If the non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), the 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, or Treasurer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

As to item (6), Rule 47 applicant has failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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JAN 05 2004

OFFICE OF PETITIONS

In re Application of	:	DECISION REFUSING
Neil S. Wester	:	STATUS UNDER
Application No. 10/404,272	:	37 CFR 1.47(b)
Filed: March 31, 2003	:	
Attorney Docket No. 42P13748	:	
For: ELECTRON EXPOSURE TO REDUCE LINE EDGE ROUGHNESS	:	

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

The petition is dismissed.

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

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 (2) set forth above.

As to item (2), the 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, or Treasurer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

An amended and signed declaration 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:[1] 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

[1] If the response is mailed using a service other than the United States Postal Service, such as Federal Express or United Parcel Service, then this address may be used by such service.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Blvd
Seventh Floor
Los Angeles, CA 90025

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of Neil S. Wester	:	DECISION ACCORDING
Application No. 10/404,272	:	STATUS UNDER
Filed: March 31, 2003	:	37 CFR 1.47(b)
Attorney Docket No. 42P13748	:	
For: Electron Exposure to Reduce Line Edge Roughness	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 13, 2003.

The petition is **granted**.

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 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
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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Neil S. Wester
7604 S. Willow Drive
Tempe, AZ 85284

COPY MAILED
JAN 23 2004
OFFICE OF PETITIONS

In re Application of Neil S. Wester :
Application No. 10/404,272 :
Filed: March 31, 2003 :
Attorney Docket No. 42P13748 :
For: Electron Exposure to Reduce Line Edge Roughness :

Dear Mr. Wester:

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.

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: Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Blvd
Seventh Floor
Los Angeles, CA 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Mike Blevins	: DECISION ON REQUEST FOR
Patent Number	: 7627631	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/404,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **965** 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

JAN 25 2005

Paper No. 091704

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

In re Application of:	:	
ANTHONY D. KURTZ *et al.*	:	
Serial No.: 10/404,308	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 24, 2001	:	FROM RECORD
Attorney Docket No.: **N0843-00097**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 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. There is no outstanding Office action at this time.

The request is **APPROVED**.

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 Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORRIS MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE., 18TH FLOOR
NEW YORK, NY 10022

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FEB 28 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hideaki Kawabata et al :
Application No. 10/404,318 :
Filed: April 1, 2003 :
Attorney Docket No. 102460-4 :

This is a decision on the petition under 37 CFR 1.313(c), filed February 22, 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 May 28, 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 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
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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NORRIS MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE., 18TH FLOOR
NEW YORK, NY 10022

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FEB 2 8 2005

OFFICE OF PETITIONS

In re Application of
Hideaki Kawabata et al
Application No. 10/404,318
Filed: April 1, 2003
Attorney Docket No. 102460-4

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed February 22, 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 May 28, 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 1774 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

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JUN 09 2009

OFFICE OF PETITIONS

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of	:	
Brad L. Sherwood	:	
Application No. 10/404,320	:	
Filed: March 31, 2003	:	DECISION ON PETITION
Patent No. 6,863,621	:	PURSUANT TO
Issued: March 8, 2005	:	37 C.F.R. § 1.28(c)
Attorney Docket No.: U11-011	:	
Title: CORRELATED SET OF GOLF	:	
CLUB IRONS	:	
	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on February 6, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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 pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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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JAY L. CHASKIN
GENERAL ELECTRIC COMPANY
3135 EASTON TURNPIKE
FAIRFIELD, CT 06828-0001

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Jose Emilio Soto :
Application No. 10/404,375 : ON PETITION
Filed: April 1, 2003 :
Attorney Docket No. 14XZ120763 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned at midnight on November 5, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an Amendment; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed July 11, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter may be directed to Wanda Banks at (571) 272-3277.

The application matter is being referred to Technology Center 2800, Art Unit 2838 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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ALEXANDRIA, VA 22313-1450
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Anthony Tridico
Finnegan Henderson Farabow Garrett & Dunner LLP
1300 I Street, N.W. Suite 700
Washington DC 20005-3315

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SEP 17 2007
OFFICE OF PETITIONS

In re Application of	:
Buil Albero, et al.	: DECISION ON APPLICATION
Application No. 10/404,395	: FOR PATENT TERM ADJUSTMENT
Filed: March 31, 2003	:
Atty. Dkt. No.: 09757-0004-01000	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed June 25, 2007. This matter is being properly treated under 37 CFR 1.704(b)

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed March 26, 2007, indicated a patent term adjustment (PTA) to date of 128 days. The instant application is timely filed. Applicants argue that the correct adjustment is 196 days.

The correct PTA at the time of the allowance is actually 128 days as indicated on the Determination of Patent Term Adjustment.

As uncontested by applicants, an adjustment of 248 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

As further uncontested by applicants, an adjustment of 32 days can be attributed the Office in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2).

The adjustment totaling 280 days is properly reduced a total of 152 days resulting in an overall adjustment to date of 128 days.

The adjustment is properly reduced 152 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) filed January 17, 2006. The reduction began August 19, 2005, the day after the date that the initial reply

to the non-final Office action was filed, and ended January 17, 2006, the date that the IDS was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 128 days (overall adjustment of 280 days less overall reduction of 152 days).

As to applicants' contention that the application is subject to a terminal disclaimer, be advised that the Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer. Instead, the Office will note on the front page of the patent that if that patent is "subject to the terminal disclaimer, the term of the patent will be adjustment or extended by X days."

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

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

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

Kery A Fries

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

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

Finnegan, Henderson, Farabow,
Garrett & Dunner
1300 I Street, N. W.
Washington, DC 20005

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Chen-Kuan Eric Hong, et al. :
Application No. 10/404,425 : DECISION GRANTING PETITION
Filed: April 2, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 8710.002-00 :

This is a decision on the petition filed July 17, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on April 2, 2003. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition must be accompanied by:

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

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

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

The failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 27, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2186 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(a)	Docket No.	Q74942

First named inventor: Chakrabarti TAPAN

Group Art Unit: 165310/404,448

Application Number: 10/404,448

Examiner: Rosanne Kosson

Filed: April 2, 2003

Title: A COMPOSITION (RCUD) FOR PROTECTING AND/OR REPAIRING DNA FROM OXIDATIVE DAMAGES AND A METHOD THEREOF

Attention: [UAPA6]
MAIL STOP [UAPA7]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

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.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION
NOTE: A grantable petition requires the following items:

1. Petition fee
   - ☐ Small entity - fee $_____ (37 C.F.R. § 1.17(i)). Applicant claims small entity status. See 37 C.F.R. § 1.27.
   - ☑ Other than small entity - fee $1,540.00 (37 C.F.R. § 1.17(i)).
2. Reply and/or fee
   - A. The reply and/or fee to the above-noted Office action in the form of Reply to Notice of Incomplete Response (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.

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PES

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 C.F.R. § 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).
4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 C.F.R. § 1.137(a) was unavoidable, is enclosed.
4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. § 371(c) requirements (or a continuing U.S. application) from their due date until the filing of a grantable petition 37 C.F.R. § 1.137(a) was unavoidable, is enclosed.
4. STATEMENT: [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 C.F.R. § 1.137(b) was unintentional (MPEP § 711.03(c), subsections (III)(C) and (D))].
   - ☑ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.
   - ☐ See Attached Statement.

19 Oct. 2007
Date

Signature

Todd B. Buck

09/05/2008 CKHLOK 00000011 10404448
Adjustment date: 09/05/2008 CKHLOK
10/22/2007 INTEFSW 00003691 194880 10404448
01 FC:1453 1540.00 CR
02 FC:1255 2230.00 CR
09/05/2008 CKHLOK 00000011 10404448
01 FC:1452 510.00 DA

48,574

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 C.F.R. § 1.137(a)	Docket No.	Q74942

First named inventor: Chakrabarti TAPAN

Group Art Unit: 165310/404,448

Application Number: 10/404,448

Examiner: Rosanne Kosson

Filed: April 2, 2003

Title: A COMPOSITION (RCUD) FOR PROTECTING AND/OR REPAIRING DNA FROM OXIDATIVE DAMAGES AND A METHOD THEREOF

Attention: [UAPA6]
MAIL STOP [UAPA7]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

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.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION
NOTE: A grantable petition requires the following items:

WRONG FEE

1. Petition fee
   - ☐ Small entity - fee $_____ (37 C.F.R. § 1.17(i)). Applicant claims small entity status. See 37 C.F.R. § 1.27.
   - ☑ Other than small entity - fee $1,540.00 (37 C.F.R. § 1.17(i)).
2. Reply and/or fee
   - A. The reply and/or fee to the above-noted Office action in the form of Reply to Notice of Incomplete Response (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.
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 C.F.R. § 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).
4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 C.F.R. § 1.137(a) was unavoidable, is enclosed.
4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. § 371(c) requirements (or a continuing U.S. application) from their due date until the filing of a grantable petition 37 C.F.R. § 1.137(a) was unavoidable, is enclosed.
4. STATEMENT: [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 C.F.R. § 1.137(b) was unintentional (MPEP § 711.03(c), subsections (III)(C) and (D))].
   - ☑ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.
   - ☐ See Attached Statement.

19 Oct. 2007
Date

Signature

Todd B. Buck 48,574

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 10/404448

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$ 2230
✓	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition			$ 1540.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $3770.00 $3770.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 19--4818

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

WRONG PET FOR
XT TIME FEES IN APPROPRIATE

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: gillon TITLE: atty

SIGNATURE: /John Gillon/ PHONE: 23214

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: _____ DATE: 9/5/08

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

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OFFICE OF PETITIONS

In re Application of	:	
Chakrabarti, et al.	:	
Application No. 10/404,448	:	DECISION
Filed 2 April, 2003	:	
Attorney Docket No. Q74942	:	

This is a decision on the petition, filed on 12 September, 2008, under 37 C.F.R. §1.137(b) for revival of an application abandoned due to unavoidable delay.

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

As to Allegations of
Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice from the Examiner of a non-responsive amendment mailed on 10 April, 2007, with reply due absent extension of time on or before 10 May, 2007.

The instant application went abandoned by operation of law after midnight 10 May, 2007.

It does not appear that the Office mailed a Notice of Abandonment before the original petition was filed.

The next steps are rather confused: On 19 October, 2007, Petitioner filed, *inter alia*, a petition under 37 C.F.R. §1.137(a), expressly averring unavoidable delay, but expressly authorizing the fee for a petition under 37 C.F.R. §1.137(b)—and so suggesting but not specifying unintentional delay—with a reply in the form of an amendment. While Petitioner made a statement of unavoidable delay, he made no showing thereof as required under the regulation. Conversely, he made no express statement of unintentional delay.

Petitioner also improvidently submitted a fee for extension of time.

The Office mailed the Notice of Abandonment on 17 July, 2008.

The petition was dismissed on 8 September, 2008, for failure to satisfy the regulatory requirements under 37 C.F.R. §1.137(a)—the showing of unavoidable delay.

(Petitioner's submission of a request and fee for extension of time—inappropriate after the expiration of the statutory period—was refunded. Moreover, the overpayment for the petition fee (that is the payment for a petition averring unintentional delay under 37 C.F.R. §1.137(b)) was directed to be refundedand, the fee for the petition averring unavoidable delay (under 37 C.F.R. §1.137(a)) was charged.)

On 12 September, 2008, Petitioner expressly submitted a petition under 37 C.F.R. §1.137(b) with fee authorization, pointed to the previously submitted reply in the form of an amendment, and made with the petition the statement of unintentional delay. (As indicated by the discussion above, Petitioner's suggestion that the fee for the instant petition previously was satisfied is in error. It now will be charged as authorized and proper to Deposit Account 19-4880.)

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

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

[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).

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

CONCLUSION

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

The instant application is released to Technology Center/AU (TC/AU) 1657 for further processing in due course.

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

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY R338
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Keting Chu	:	
Application No. 10/404,466	:	DECISION GRANTING PETITION
Filed: April 1, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PP001361.0103	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 31, 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Margo Furman appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Furman desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

---

[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.*

This application is being referred to Technology Center AU 1646 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: MARGO FURMAN
FISH & RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Harry M. Levy/Olson & Cepuritis, Ltd.
36th Floor
20 N. Wacker Dr.
Chicago IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,776,107	:	
Issue Date: August 17, 2004	:	
Application No. 10/404,486	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. SHOUP 38	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 6, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 18, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

The patent file is being forwarded to Files Repository.

Brian W. Brown
Petitions Examiner
Office of Petitions

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221 MAIN STREET NORTH
STILLWATER MN 55082

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Michael Christian :
Application No. 10/404,504 :
Filed: March 26, 2003 :
Attorney Docket No. VER0005/US :

ON PETITION

This is a decision on the petition, filed March 18, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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]

Further, petitioner is reminded that each distinct subject, inquiry must be contained in a separate paper. See 37 CFR 1.4(c).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

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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 2876 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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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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OCT 2 4 2006

OFFICE OF PETITIONS

In re Application of
CANEZIN, et al.
Application No. 10/404,517
Filed: April 01, 2003
Attorney Docket No. 221424

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 September 07, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "This file was transferred to another firm," are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Alison B. Weisberg, Esq.
1701 Market Street
Philadelphia, PA 19103-2921

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NEW YORK, NY 10281-2101

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Nishihara, et al.	:	
Filed: April 1, 2003	:	ON PETITION
Application No. 10/404,523	:	
Atty. Dkt. No.: 1232-5006	:	

This decision is in response to the "PETITION UNDER § 1.181 FOR WITHDRAWAL OF NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION" filed January 18, 2005 in response to the "Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed December 27, 2004.

The application was filed April 1, 2003. The Notice mailed indicated that the application had been accorded a filing date but that pages 16, 43, 48, 53, 64, & 74 appeared to have been omitted from the application.

In response, the present petition was filed wherein petitioner argues that the Notice was mailed in error as the application was complete upon filing and that the application has been examined by the examiner of record without incident regarding omitted pages of specification. Petitioner has included as proof of mailing and proof of receipt of the pages of specification in question a return postcard date stamped by the Office on April 1, 2003. Petitioner has also, as a courtesy, submitted a duplicate copy of the application papers as filed April 1, 2003.

The pages in question have not been located in the Office. However, in view of the evidence presented, the petition to accord the application a filing date of April 1, 2003 is GRANTED and the Notice is hereby WITHDRAWN.

Since the original sheets indicated in the Notice cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund to deposit account No. 50-0238 has been requested from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 1, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PO Box 2786
Chicago, IL 60690-2786

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Stevens	:	
Application No. 10/404,551	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. 923071-96102(3071-1019.2)	:	

This is a decision on the PETITION TO REVIVE ABANDONED PATENT APPLICATION filed August 12, 2005. Applicant requests revival based on unavoidable delay, or, in the alternative, based on unintentional delay.

The petition under § 1.137(a) is **DISMISSED**.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application was held abandoned for failure to reply to the non-final Office action mailed February 9, 2004. The Office action set a three-month period of time for reply, with extensions of time obtainable under § 1.136(a). No extensions of time having been filed and no reply received, the application became abandoned on May 10, 2004. A courtesy Notice of Abandonment was mailed on September 17, 2004

In response, applicants filed the instant petition, asserting that the delay was unavoidable. A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the 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 the response to the Office action and payment of the fee under § 1.17(l). As this application was filed after June 8, 1995, no terminal disclaimer is required on petition to revive.

However, the petition is not grantable because requirement (3) above is not met.

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.

Petitioner's arguments and evidence have been considered, but not found persuasive. Petitioner has not made an adequate showing of unavoidable delay. Petitioner asserts that he desired to continue prosecution, but due to financial difficulty he was unable to pay his lawyers to have them continue work on the application. Based on this assertion, it is preliminarily concluded that petitioner did not make a deliberate decision to abandon this application. The record in this case does not contravene such a conclusion. Thus, a finding of unavoidable or unintentional delay is not precluded[1].

In regards to applicant's implicit assertion of unintentional delay, applicant is reminded that

> While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the

---

[1] Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). 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. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

> applicant's duty of candor and good faith and accepts 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" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

However, regarding the actual showing of unavoidable delay, petitioner does not submit documentation showing that the company had increasing financial difficulties and thus, funds were insufficient to continue prosecution of the application. An unsupported assertion of financial hardship is insufficient to meet applicant's burden of establishing unavoidable delay.

A showing of "unavoidable" delay based upon financial difficulty must establish that petitioner lacked the financial resources to timely pay the fee at issue. Such a showing must be supported by a complete showing of the responsible person's financial condition during the entire relevant period, including income, expenses, assets, credit and obligations, which made the delay in processing the application unavoidable. Petitioner should provide a month-by-month analysis of income, expenses, and assets to establish the fact that, at no time, could petitioner have afforded to pay their attorneys to continue prosecution. Petitioner must establish that prosecution of the application was treated as his most important business. If petitioner did not take action prior to filing the instant petition, due to a conclusion that the invention lacked sufficient commercial value to justify the expense, then the delay is neither unavoidable nor unintentional. If petitioner failed to act based on the perceived financial value of any patent issued on the application, then the delay is not unavoidable. Petitioner

should provide copies of any documents or records that would confirm the financial difficulty.

However, in regards to submitting such financial information, applicant is reminded that patent applications are generally published before a patent issues. Applicant should consider whether personal information is necessary in a document to be included in a patent application, before submitting the information to the Office. The Office does not require the Social Security Number of an inventor, and there is no need to include this type of personal information in a patent application. Even where the Office does require some degree of confidential information, applicant can still take steps to protect their privacy. For example, a copy of a cancelled check may be necessary to show that a payment was made, but the copy can be redacted before it is submitted to the Office to block the routing number on the check. In addition, since patent applications are published with the correspondence address of the application on the patent application publication, applicants, particularly those applicants who are not using a patent attorney or patent agent, may wish to consider using a business address rather than a home address to preserve privacy. See *Reminder of the Proper Procedure for Filing Confidential Information Pursuant to MPEP 724.02*, 1282 OG 107 (May 18, 2004).

Nonetheless, while the showing of record is not sufficient to satisfy the requirements of § 1.137(a), applicant has met the requirements of § 1.137(b). The petition includes the reply required to the outstanding Office action or notice. The petition fee set forth in 37 CFR 1.17(m) has been charged to Deposit Account No. 12-0913, as authorized. 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." The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition. As previously stated, no terminal disclaimer is required.

The application file is being forwarded to Technology Center 3651 for consideration of the amendment after non-final Office action filed August 12, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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1756 Pub

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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Shune-Long Wu et al :
Application No. 10/404,560 : NOTICE
Filed: April 2, 2003 :
Attorney Docket No. MR3029-68 :

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

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

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

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

Wan Laymon

Wan Laymon
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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Martin Boliek	: DECISION ON REQUEST FOR
Patent Number	: 7583847	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/404,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

McAndrews, Held & Malloy, LTD
500 West Madison Street
Suite 3400
Chicago, Illinois 60661

In re Application of: Patrick J. O'Neill
Application No. 10/404,601
Filed: April 1, 2003
For: SYSTEM AND METHOD FOR UPDATING AND DISTRIBUTING INFORMATION

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

This is a decision on the petition, filed May 19, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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, ...

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given

> one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that for each of the more than 40 references Applicant provides the introductory phrase "The reference ***purports*** to disclose" followed by a mere reproduction of the Abstract. There is no detailed discussion of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c). That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

McAndrews, Held & Malloy, LTD
500 West Madison Street
Suite 3400
Chicago, Illinois 60661

MAIL

OCT 2 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Patrick J. O'Neill)
Application No. 10/404,601)
Filed: April 1, 2003) **DECISION ON PETITION FOR**
For: SYSTEM AND METHOD FOR) **ACCELERATED EXAMINATION**
UPDATING AND DISTRIBUTING) **UNDER M.P.E.P. §708.02(VIII)**
INFORMATION)

This is a decision on the request for reconsideration, filed October 24, 2003 of the decision mailed September 22, 2003 denying 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 filed October 24, 2003, corrects the deficiencies noted in the previous decision. The undersigned indicated that a detailed discussion is not necessary for every reference turned up in a search and submitted to meet the duty of disclosure. For purposes of obtaining accelerated examination a detailed discussion is required for the references "deemed most closely related to the subject matter of the claims". There is no bright line rule for the number of references which must be dealt with under this standard. Petitioner has deemed 5 references to fit the category and has provided a detailed discussion as required. The submission now 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.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 23, 2005

TO SPE OF : ART UNIT 2193 (*Kakali Chaki*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,832,373

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the Related U.S. Application Data – on page 2 of the cover letter (not in the 1050 form), and the claim changes. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

claim 31: column 43, line 14, please delete "a model" and insert -- at least one version --; NOT entered

Kakali Chaki

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2193
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. 5

TIMOTHY J. OYER
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of
Gavin MacBeath et al
Application No. 10/404,619
Filed: April 1, 2003
Attorney Docket No. M00925.70121.US

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISIC, CA 94105

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Ping Chen, et al.	:	
Application No. 10/404,630	:	DECISION ON PETITION
Filed: March 31, 2003	:	TO WITHDRAW
Attorney Docket No. 188122001100	:	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 12, 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 May 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT E. SCHEID
NOVAK DRUCE & QUIGG, LLP
SPEAR STREET TOWER – 35TH FLOOR
ONE MARKET PLAZA
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 16 2008
OFFICE OF PETITIONS

In re Application of :
Peter L. KATSIKAS. :
Application No. 10/404,631 : ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. 320528021US3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A TWO (2) MONTH extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 2136 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.

for David Bucci
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 080504

Duane Morris, LLP
305 North Front Street
PO Box 1003
Harrisburg, PA 17108-1003

AUG 19 2004

In re Application of:
SMITH et al.
Serial No.: 10/404,634
Filed: April 1, 2003
Attorney Docket No.: **H1542-00014**

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 December 22, 2003.

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

The request meets all the above stated requirements. The request was signed by Mark Montague, on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period.

The request is **APPROVED**. There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Gregory Allen, 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: Ms. Ruth Harpster
Intell. Property Asst.
The Pennsylvania State University
Intell. Property Office
113 Technology Center
University Park, PA 16802

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 12, 2005

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,937,828

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.

Magdalene Talley

Thank You For Your Assistance

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

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

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

Comments:

AU 2852

SPE **Art Unit**

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ATTN: MCMR-JA
(MS. ELIZABETH ARWINE- PATENT ATTY)
U. S. ARMY MEDICAL RESEARCH
AND MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

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MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Evelina ANGOV et al. :
Application No. 10/404,668 : DECISION ON PETITION
Filed: April 01, 2003 :
Attorney Docket No. 003/263/SAP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 July 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/907,584 filed October 15, 2007.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **ANN S. HOBBS**
VENEBLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

UNITED STATES PATENT AND TRADEMARK OFFICE

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SANDRA P. THOMPSON
BINGHAM McCUTCHEN, LLP
600 ANTON BLVD., 18TH FLOOR
COSTA MESA, CA 92626

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SEP 01 2004

OFFICE OF PETITIONS

In re Application of
Paul G. Apen, Kreisler S. Lau,
Boris A. Korolev, Bo Li, Ruslan
Zherebin, Edward J. Sullivan,
Christian Werner, Sonja Demel,
Bernd Kellermeier and Andreas
Kanschik-Conradsen
Application No. 10/404,676
Filed: April 2, 2003
For: ORGANIC COMPOSITION

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 2, 2004.

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 April 2, 2003 without an executed oath or declaration and naming Paul G. Apen, Kreisler S. Lau, Boris A. Korolev, Bo Li, Ruslan Zherebin, Edward J. Sullivan, Christian Werner, Sonja Demel, Bernd Kellermeier and Andreas Kanschik-Conradsen as joint inventors.

Accordingly, on June 3, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on July 2, 2004, the instant petition was filed.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (2) and (4), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration does not set forth:

- the citizenship of Edward J. Sullivan;
- the mailing address of the non-signing inventor differs from the last known address of the non-signing inventor provided in the instant petition. As this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration, this should be corrected.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

As to item (4), a statement of the inventor's last known address is missing and is required. Petitioner has provided two addresses as the last known address for the non-signing inventor, however, petitioner has not explained why two addresses were provided nor which address is applicable.

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
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

SANDRA P. THOMPSON
BINGHAM McCUTCHEN, LLP
600 ANTON BLVD., 18TH FLOOR
COSTA MESA, CA 92626

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SEP 02 2004
OFFICE OF PETITIONS

In re Application of :
Apen, et al. :
Application No. 10/404,676 : ON PETITION
Filed: April 2, 2003 :
Attorney Docket No. H0003446 :

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

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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 June 2, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 2003. A Notice of Abandonment was mailed on February 12, 2004.

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 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, 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 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.

The reply submitted in response to the Notice, the petition under 37 CFR 1.47(a), filed July 2, 2004, was dismissed on September 1, 2004. As such, a proper reply to the Notice has not been submitted. Accordingly, the petition must be dismissed.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SANDRA P. THOMPSON
BINGHAM McCUTCHEN, LLP
600 ANTON BLVD., 18TH FLOOR
COSTA MESA, CA 92626

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of Paul G. Apen, Kreisler S. Lau, Boris A. Korolev, Bo Li, Ruslan Zherebin, Edward J. Sullivan, Christian Werner, Sonja Demel, Bernd Kellermeier and Andreas Kanschik-Conradsen Application No. 10/404,676 Filed: April 2, 2003 For: ORGANIC COMPOSITION	PETITION UNDER 37 CFR 1.47(a) DISMISSED AND DECISION NOTING JOINDER OF INVENTORS

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed October 25, 2004.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Edward J. Sullivan in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not required and the petition is dismissed as moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

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

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 13

SANDRA P. THOMPSON
BINGHAM McCUTCHEN, LLP
600 ANTON BLVD., 18TH FLOOR
COSTA MESA, CA 92626

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OFFICE OF PETITIONS

In re Application of :
Apen, et al. :
Application No. 10/404,676 : ON PETITION
Filed: April 2, 2003 :
Attorney Docket No. H0003446 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 2, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 3, 2003. A Notice of Abandonment was mailed on February 12, 2004.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GREENBERG TRAURIG LLP
MET LIFE BUILDING
200 PARK AVENUE; 14TH FLOOR
NEW YORK NY 10166

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OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 10/404,677	:	DECISION ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. 63787.010100	:	

This is a decision on the petition under 37 CFR 1.137 (f), filed October 7, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 present nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 23, 2004. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, 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 eighteen 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 present 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 forty-five 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. The Office records indicate that this application published on January 12, 2006.

This matter is being referred to Technology Center 1761.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2007

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No. 10/404680 patent no.7000211

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: _____

JACK CHIANG

SUPERVISORY PATENT EXAMINER

SPE

2825

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

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

MAILED

APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/404,687	:	DECISION ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. US3806	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before May 9, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 9, 2007, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on May 10, 2007. A Notice of Abandonment was mailed June 8, 2007.

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

With respect to item (1) petitioner has failed to pay the issue fee of $1,510.00 and the publication fee of $300.00.

Petitioner alleges that the issue and publication fees were paid on May 9, 2007. However, a review of USPTO financial records shows no such payment. Petitioner has also submitted a copy of the front of a check reportedly sent to the USPTO on May 9, 2007. However, there is no copy of the back of the check in order to establish its endorsement, nor is there any evidence that the check was cashed.

Petitioner has submitted a copy of the postcard receipt. MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." However, the postcard receipt submitted with the instant petition does not have a USPTO date stamp.

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.

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

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

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Frank R. Niranjan
468 Lambert Rd.
Fullerton, CA 92835-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/404,687	:	DECISION ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. US3806	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 9, 2007, as required by the Notice of Allowance and Fee(s) Due mailed February 9, 2007. Accordingly, the date of abandonment of this application is May 10, 2007. A Notice of Abandonment was mailed June 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00 (previously paid on March 26, 2009); and (3) a proper statement of unintentional delay.

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 Joan Olszewski at (571) 272-7751.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Frank R. Niranjan
468 E. Lambert Rd.
Fullerton, CA 92835-1022

SPE: ~~J. Feild~~ GEORGE ENG

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/404,688 Patent No.: 7085585

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: A decision will mail to applicant and a request for certificate of correction will forward to Certificate of Correction Branch.

George Eng — SPE

2617 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/404,688	03/31/2003	Richard J. Camarillo	UTL 00205	8443

7590 06/27/2007
Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

EXAMINER
HANNIF ALI, LARRY

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
06/27/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. CAMARILLO ET AL.	:	
Issue Date: August 1, 2006	:	**DECISION GRANTING**
Appl No.: 10/404,688	:	**PETITION**
Filed: March 31, 2003	:	*37 CFR 1.324*
For: Certification of Patent Correction (Inventorship)	:	
	:	
	:	
	:	

This is a decision on the petition filed 5/30/2007 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.

George Eng
Supervisory Patent Examiner
Art Unit 2617
Technology Center 2600

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: June 22, 2007
TO: Certificates of Correction Branch
FROM: George Eng
SPE, Art Unit 2617
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,085,585 as specified on the attached Certificate.

George Eng, SPE
Art Unit 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,085,585
Patented: August 1, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Front page [75], Inventors: include/add --Wade L. Heimbigner, San Diego, CA (US)--

George Eng
Supervisory Patent Examiner
Art Unit 2617

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/11/03

Brooks and Kushman P C
1000 Town Center 22nd Floor
Southfield MI 48075

Dear Applicant:

The Box PGPub replacement drawings for application number 10/404,702 received on 6/9/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND 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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Scott D. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7590829	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/404,706	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **331** 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.

PETER J. GORDON
PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY MA 01876

COPY MAILED

APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Gonsalves	:	DECISION ON
Application No. 10/404,708	:	PETITION
Filed: April 1, 2003	:	
Attorney Docket No. A2003004	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed April 8, 2008.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed September 11, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No proper reply having been received and no extension of time obtained the application became abandoned effective December 12, 2007. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submits a Request for Continued Examination (RCE and RCE Fee) and submission under §1.114 (in the form of an amendment); pays the petition fee; and makes the required statement of unintentional delay. Petitioner has met all requirements for a grantable petition to revive under 37 CFR 1.137(b).

Technology Center AU 2625 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed April 8, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE, G-215G
SAN DIEGO, CA 92121-1714

COPY MAILED

MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of	:
Emilija Simic et al	:
Application No. 10/404,711	: DECISION GRANTING PETITION
Filed: March 31, 2003	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 020041	:

This is a decision on the petition, filed May 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 (703) 305-8680.

This matter is being referred to Technology Center AU 3662 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

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/23/2010

Applicant	: Christopher Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7596190	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/404,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **962** 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.

RECEIVED
CENTRAL FAX CENTER
MAR 2 5 2005

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/404,734
Filing Date	April 1, 2003
First Named Inventor	Philip B. Davis
Art Unit	1781
Examiner Name	Milton I. Cano
Attorney Docket Number	PBD-004

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

Approved 7/19/05
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The inventor/owner of the invention and patent application has assigned his interest in the patent application to an unrelated third party.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Philip B. Davis				
Address	2572 Kemper Road, #108				
City	Shaker Heights	State	Ohio	Zip	44120
Country	United States of America				
Telephone	(216) 791-3245	Fax			
Signature	Carmen R. Adams				
Name	Carmen R. Adams	Registration No.	38,809		
Date	March 25, 2005	Telephone No.	(704) 374-6247		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.38. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES 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

Vincent C. Ilagan
Artz & Artz, P.C.
Suite 250
28333 Telegraph Road
Southfield, MI 48034

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Blaise F. Bergmann :
ApplicationNo.10/404,742 :
Filed: April 1, 2003 :
Attorney Docket No. :
01-1048/011690 (BOE 0363 PA) :

ON PETITION

This is a decision on the Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed September 22, 2003, requesting the application be accorded a filing date of April 1, 2003, including page 28 of the specification.

The petition is **granted**.

The application was filed on April 1, 2003. However, on May 28, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), noting that page 28 (description and claims) of the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that page 28 of the specification was included among 25 pages of Specification, 20 Claims (pgs. 26 - 29), Abstract, 1 sheet, and Drawings, 6 sheets, filed initially, on April 1, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 25 pages of Specification, 20 Claims (pgs. 26 - 29), Abstract, 1 sheet, and Drawings, 6 sheets, filed on April 1, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 25 pages of Specification, 20 Claims (pgs. 26 - 29), Abstract, 1 sheet, and Drawings, 6 sheets, by this Office on April 1, 2003. Petitioner has also re-submitted page 28 of the specification with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of page 8 of the specification, supplied on March 17, 2003, will be used for examination purposes.

No petition fee is required, and none has been charged.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of April 1, 2003, and an indication that page 28 of the Specification was included among 25 pages of Specification, 20 Claims (pgs. 26 - 29), Abstract, 1 sheet, and Drawings, 6 sheets, were present on filing on April 1, 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JAN 2 0 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Katrina A. Lyon
LYON & HARR, LLP
Suite 800
300 Esplanade Drive
Oxnard CA 93036

In re Application of	:	
Zhengyou Zhang	:	
Serial No.: 10/404,745	:	
Filed: March 31, 2003	:	DECISION ON PETITION
For: **SYSTEM AND METHOD FOR WHITEBOARD SCANNING TO OBTAIN A HIGH RESOLUTION IMAGE**	:	*ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR 1.183 filed March 31, 2005, which is being treated as a petition under 37 C.F.R. § 1.84(a)(2), requesting acceptance of color drawings.

The petition requests that the color drawings identified be accepted in lieu of black and white drawings. It should be noted that only Figures 3, 4a, 4b, 6, 11, 12, 13, 14a, and 14b are submitted in color.

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 application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

The petition is GRANTED.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/17/10

TO SPE OF : ART UNIT 2167

SUBJECT : Request for Certificate of Correction for Appl. No.: 10404767 Patent No.: 7689569

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

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

Comments: First change does not apply. Appears to be typo by applicant. Element 130 is not in figure 1C. Element 130 is in Figure 1B, therefore should delete "Addrress" for element 130 in figure 1B and insert "Address".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

2167

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MIMI DIEMMY DAO
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

COPY MAILED

MAY 27 2008

In re Application of	:	
Ravindra SOMAN et al.	:	
Application No. 10/404,781	:	DECISION ON PETITION.
Filed: March 31, 2003	:	
Attorney Docket No. 42P15684	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 07, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 08, 2007.

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

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. (See attached courtesy copy of examiner's advisory action.)

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.

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) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **JENNIFER HAYES**
BLAKELY SOKOLFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Attachment: Courtesy copy of examiners Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/404,781	Applicant(s) SOMAN ET AL.	
	Examiner Savitri Mulpuri	Art Unit 2812	

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

THE REPLY FILED 15 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: forming a seed layer over silicon, silicon oxide, silicon nitride at recited temperature and pressure is new issue, which requires furhter consideration and search.

/Savitri Mulpuri/
Primary Examiner, Art Unit 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Ravindra SOMAN et al.	:	
Application No. 10/404,781	:	DECISION ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 42P15684	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 09, 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 March 07, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2812 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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/22/05

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 6824651 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert
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:

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Steven P. Griffin
SPE

1731
Art Unit

10/404,786.

Cor
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FEB 0 7 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Patent of:

LASMARIAS et al.

Patent No.: 6,824,651

Issued: November 30, 2004

Atty. File No.: 2763-94-1

For: "TALC COMPOSITION AND USE IN PAPER PRODUCTS"

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANTS' MISTAKE
(Under 37 CFR §1.323)

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA VA 22313-1450 ON FEBRUARY 1, 2005.

SHERIDAN ROSS P.C.

BY: [signature]

Attn: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
FEB 1 4 2005
of Correction

Dear Sir:

This is a request for a Certificate of Corrections for Applicants' mistake under 37 CFR 1.323. Attached in duplicate is form PTO 1050. The errors in the patent are typographical errors or omissions. Applicants enclose the fee set forth in § 1.20(a). Please debit any underpayment or credit any overpayment to Deposit Account No. 19-1970.

02/09/2005 FMETEKI2 00000063 6824651
01 FC:1811 100.00 OP

Respectfully submitted,

SHERIDAN ROSS P.C.

By: [signature]

Gary J. Connell
Registration No. 32,020
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: February 1, 2005

APPROVED - OK TO ENTER
SPG 4/11/05

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,824,651 B2

DATED : November 30, 2004

INVENTOR(S) : LASMARIAS, et al.

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

✓ In Col. 5, line 38, " and the treated" has been deleted and –.– has been inserted.

✓ In Col. 6, lines 64-64, "The vacuum drainage test tests the drainage time through the sheet." has been deleted.

MAILING ADDRESS OF SENDER:

Gary J. Connell
SHERIDAN ROSS P.C.
1560 BROADWAY
SUITE 1200
DENVER, COLORADO 80202-5141

PATENT NO. 6,824,651 B2

No. of additional copies

FEB 17 2005

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

HUNG CHANG LIN
8 SCHINDLER CT.
SILVER SPRING MD 20903

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NOV 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Jiahn-Chang Wu	:	
Application No. 10/404,793	:	DECISION ON PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 1.181
Attorney Docket No. Peng-8953C	:	

This is a decision on the petition filed June 5, 2006, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

This application was held abandoned because petitioner submitted a fee of $55 instead of the required fee of $60 for a one month extension of time on October 4, 2005. Therefore an insufficient fee of $5 remained as no authorization was provided to charge for the deficiency fee.

Petitioner asserts that he never received the Notice of Fee Due dated October 5, 2005. However, the notice in question is an In-House notice and not a notice that is mailed to applicants.

Petitioner is encouraged to review the fees in effect at the time of payment of any documents to the USPTO.

The Office follows the guidelines set forth in MPEP § 711.03(c) (see also "Withdrawing the Holding of Abandonment When Notices Are Not Received," 1156 *Official Gazette* 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record.

As stated above, the Notice of October 5, 2005, is an In-House notice and therefore, not mailed to applicant. Lack of knowledged of the current fees is not a relief to withdraw the holding of abandonment.

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

Petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the required petition fee.

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 of unintentional delay 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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

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

HUNG CHANG LIN
8 SCHINDLER CT.
SILVER SPRING MD 20903

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APR 13 2007
OFFICE OF PETITIONS

In re Application of	:	
Jiahn-Chang Wu	:	
Application No. 10/404,793	:	DECISION GRANTING PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. Peng-8953C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an insufficient fee payment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the 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 2822 to consider the Appeal Brief submitted on October 4, 2005.

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

GATEWAY, INC.
ATTN: Patent Attorney
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

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OFFICE OF PETITIONS

In re Application of	:	
Erickson et al.	:	
Application No. 10/404,798	:	ON PETITION
Filed: 1 April, 2003	:	
Atty Docket No. P1895US00	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, and, in the alternative, under 37 CFR 1.137(b),[1] filed on 7 July, 2005.

The petition under 37 CFR 1.181 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. 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 application became abandoned on 17 May, 2005, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 16 February, 2005, which set a three (3) month statutory period for reply. A Fee(s) Transmittal form was filed on 13 May, 2005, authorizing the fees to be charged to counsel's deposit account, No. 50-0439, however counsel's deposit account did not contain sufficient funds to charge the issue and publication fees, and the case therefore became abandoned. Notice of Abandonment was mailed on 1 June, 2005, stating that there were insufficient funds in the deposit account on 13 May, 2005.

Petition to Withdraw Holding of Abandonment

Petitioners assert that the issue and publication fees were timely filed. The evidence of record is not persuasive, however, as a review of Office financial records reveals that on 13 May, 2005, counsel's deposit account had a balance of $241.00, which was insufficient to pay the issue and publication fees.

An amount sufficient to cover all fees, services, copies, etc., request must always be on deposit. Charges to accounts with insufficient funds will not be accepted.[2] An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.[3]

As such, the showing of record is that the application was properly held abandoned. The holding of abandonment will not be withdrawn. The petition is dismissed.

Petition Under 37 CFR 1.137(b).

The petition is granted.

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.

---

[2] 37 CFR 1.25(a).

[3] 37 CFR 1.25(b).

The petition fee and issue and publication fees will be charged to counsel's deposit account.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A. FOX
55 GRIFFIN SOUTH ROAD
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yong-IL Kim :
Application No. 10/404,806 :
Filed: April 1, 2003 :
Attorney Docket No. 21C-0040 :

This is a decision on the petition, filed February 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[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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July 30, 2007

B. Todd Patterson
PATTERSON & SHERIDAN, LLP
3040 Post Oak Blvd., Suite 1500
Houston, TX 77056

Patent No: 7205224 B2
Application No: 10/404830
Applicant: Robert P. Mandal
Issued: April 17, 2007
Title: **VERY LOW DIELECTRIC CONSTANT PLASMA-ENHANCED CVD FILMS**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.323.

The first error mentioned in your request in section 56, page 2 cannot be located.

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

Further communication concerning this application should be submitted to the Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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Heller Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Edward W. Knowlton, et al. :
Application No. 10/404,883 : ON PETITION
Filed: March 31, 2003 :
Attorney Docket No. 39238-0015 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on August 2, 2004, which set a three-month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on November 3, 2004.

Petitioner has submitted an amendment and terminal disclaimer along with the instant petition and receipt of these items is acknowledged.

37 CFR 1.137(d) 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 the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $65 will not be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3700.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 12, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/404931 Patent No.: 7272168 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 Director/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: the phrase "and p=1...K" is repeated twice

/David C. Payne/
SPE

2611
Art Unit

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No.

MARGER JOHNSON & MCCOLLOM, P.C.
- Sharp
210 SW MORRISON STREET
SUITE 400
PORTLAND OR 97204

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Ayyagari et al. : DECISION ON PETITION
Application No. 10/404,957 :
Filed: March 31, 2003 :
Attorney Docket No. 8371-159 :

This is a decision on the "PETITION TO THE DIRECTOR TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, OR IN THE ALTERNATIVE, TO EXTEND TIME TO SEEK JUDICIAL UNDER 37 CFR 1.304(a)(3)(i)" filed April 3, 2009.

By Notice of Abandonment mailed April 2, 2009, applicants were advised that the application was abandoned because the period for seeking court review after the decision rendered on February 4, 2009 by the Board of Patent Appeals and Interferences had expired and there were no allowed claims. See 37 CFR 1.304.

In response, applicant filed the instant petition along with a Request for Continued Examination (RCE), the RCE fee and a submission under 1.114(c) in the form of an amendment. Applicants submit that the notice of abandonment was prematurely mailed as the period pursuant to 37 CFR 1.304(a)(1) had not expired. Applicants submit the RCE (and amendment) filed April 3, 2009 are timely filed within the two month period for seeking court review.

Petitioner's argument is persuasive. As provided in MPEP 706.07(h), the filing of an RCE is timely within two months after a decision by the Board:

> The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals

> and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.

Thus, the RCE filed April 3, 2009 was timely filed. Further the RCE was proper as it included a submission and payment of the RCE fee. (No request for rehearing was filed in this application).

Accordingly, the Notice of Abandonment mailed April 2, 2009 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2453 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment, for consideration by the examiner of the RCE timely filed April 3, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ARLEN L. OLSEN
SCHMEISER OLSEN & WATTS
3 LEAR JET LANE, SUITE 201
LATHAM, NY 12110

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
John W. Wilkinson	:	
Application No. 10/404,962	:	NOTICE
Filed: March 31, 2003	:	
Attorney Docket No. MPL-3247US3	:	

This is in response to the communication filed July 23, 2004, which is being treated as a request for acceptance of fee deficiency submissions 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 (703) 305-8680. Effective September 27, 2004, the new number will be 571-272-3218.

Frances Hicks

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

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FEB 21 2008

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

In re Application of	:	
Edward W. Knowlton, et al.	:	
Application No. 10/404,971	:	DECISION GRANTING PETITION
Filed: March 31, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. THERM-03	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiners
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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Battelle Memorial Institute
505 King Avenue
Columbus, OH 43201-2693

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JAN 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Herman P. Benecke, et al.	:	
Application No. 10/404,979	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 21532(4)CIPDIV2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

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505 KING AVENUE
COLUMBUS, OHIO 43201-2693

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Herman P. Benecke et al	:
Application No. 10/404,979	: DECISION ON PETITION
Filed: March 31, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 21532(4)CIPDIV2	:

This is a decision on the petition, filed April 1, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.[1]

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

This abandoned matter is being referred to Files Repository.

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

[1] Pursuant to a telephone conversation with petitioner herein (Mr. Wiesman), it was confirmed that a divisional application was previously filed, from which other divisional applications will be filed.

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WESTERN DIGITAL TECHNOLOGIES, INC.
20511 LAKE FOREST DR. -C205
LAKE FOREST CA 92630

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MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Norman D. Gardner	:	
Application No. 10/405,013	:	ON PETITION
Filed: 31 March, 2003	:	
Att'y Docket No. K35A1188	:	

This is a decision on the petition under 1.137(b),[1] filed on 25 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 18 February, 2005, for failure to timely submit the issue fee as required by the Notice

---

[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)).

of Allowance and Issue Fee Due mailed on 17 November, 2004, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The application file is being referred to the Publishing Division for processing into a patent.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 34

Crockett & Crockett
Suite 400
24012 Calle De La Plata
Laguna Hills CA 92653

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OFFICE OF PETITIONS

In re Application of	:	
Niakin et al.	:	
Application No. 10/405,018	:	DECISION GRANTING PETITION
Filed: March 31, 2003	:	
Attorney Docket Number:	:	
212/441	:	

This is a decision on the Request to Correct Filing Date, filed May 14, 2003, which is being treated as a petition under 37 CFR 1.10(d). Petitioner requests that the above-identified application be accorded a filing date of March 31, 2003, instead of the presently accorded date of April 1, 2003.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on March 31, 2003. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that March 31, 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 31, 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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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,464,055
Issued: December 9, 2008
Application No. 10/405,025
Filed: March 28, 2003
Dkt. No.: 4672/298

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

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed December 17, 2008. This matter is being properly treated under 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Pat. No. 7,464,055 on December 9, 2008. The patent issued with a patent term adjustment of 1129 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d).

Patentee requests correction of the patent term adjustment from 1129 days to 1656 days. Patentee requests this correction on the basis that the Office took in excess of three years to issue the above-referenced patent. Patentee also contests the reductions totalling 88 days.

Patentee asserts that the 18 day reduction entered August 18, 2008 and the 70 day reduction entered October 1, 2008 assessed in connection with "WORKFLOW – DRAWINGS FINISHED" entries are in error. Patentee argues that applicant did not make any drawing submissions on either of those dates.

A review of the record reveals that patentee is correct. The entry of reductions of 18 days and 70 days appear to have been entered in error. Accordingly, the error will be corrected by way of Certificate of Correction.

In view of Wyeth v. Dudas, No. 07-1492, 88 USPQ2d 1538 (DDC 2008), patentee asserts that the application is entitled to an additional adjustment of 459 days for failure to issue the patent within three years of the application filing date in accordance with 37 CFR 1.702(b). Thus, patentee asserts that the application is entitled to an overall adjustment of 1656 days (1197 days under 37 CFR 1.702(a) + 459 days under 37 CFR 1.702(b).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to

conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on December 9, 2008, the application was pending three years and 987 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1217 days is correct (1197 days pursuant to 37 CFR 1.702(a)(1) and 20 days pursuant to 37 CFR 1.702(a)(2)). At issue is whether patentees should accrue 987 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1217 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 987 days of delay in issuing the patent overlaps with the 1217 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

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

---

[1] Likewise, 37 CFR 1.703(f) provides that:

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

54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), March 28, 2003, and ending on December 9, 2008, the date that the patent issued.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 1217 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 987 days of patent term adjustment accrued for Office issuance of the patent more than three years after the application filing date.

The 987 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1217 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 987 days and the 1217 days is neither permitted nor warranted given that 1217 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 1217 days of patent term adjustment, having considered the 987 days of Office delay under the three-year pendency provision. However, the 1217 days of adjustment was improperly reduced 88 days for applicant delay.

Accordingly, at the time of issuance, the patent was entitled to 1217 days of patent term adjustment.

In view thereof, this application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1217 days.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

No additional fee is due in connection with this matter.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,464,055 B2
DATED	:	December 9, 2008
INVENTOR(S)	:	Kelly, 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 1129 days

Delete the phrase "by 1129 days" and insert – by 1217 days--

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P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of	:
Paul W. Dow et al	:
Application No. 10/405,030	: DECISION GRANTING PETITION
Filed: March 31, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12821.16US01	:

This is a decision on the petition, filed March 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\405030.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of
Paul W. Dow et al
Application No. 10/405,030
Filed: March 31, 2003
Attorney Docket No. 12821.16US01

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

This is a decision on the petition, filed May 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 January 10, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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WOODARD EMHARDT MORIARTY
MCNETT & HENRY LLP
111 MONUMENT CIRCLE, #3700
INDIANAPOLIS, IN 46204-5137

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald G. Thieman	:	
Application No. 10/405,052	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. 3046-262	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 2, 2004, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 3, 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 3721 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE D. Schuberg

Approved 5/5/06

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/3/04

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/405,061 Patent No.: 6917121

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: _____

_____

_____

_____

_____

SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 09 2005

OFFICE OF PETITIONS

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

In re Application of	:	
Paul W. Dow et al	:	
Application No. 10/405,073	:	ON PETITION
Filed: March 31, 2003	:	
Attorney Docket No. 12821.22US01	:	

This is a decision on the petition, filed September 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 July 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3651 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : September 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Paul W. Dow et al
Application No. :10/405,073
Filed :March 31, 2003

The above-identified application has been assigned Patent No. 6,942,090 and an issue date of September 13, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 13, 2005:

"All reference to Patent No. 6,942,090 to Paul W. Dow et al of New York for BLADE PULLEY appearing in the Official Gazette of September 13, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JONES & SMITH, LLP
2777 ALLEN PARKWAY, SUITE 800
HOUSTON TX 77019-2141

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DEC 0 1 2009

OFFICE OF PETITIONS

In re Patent No. 6,883,782	:	
Issue Date: April 26, 2005	:	
Application No. 10/405,083	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 041443-01200	:	

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

O I P E IAP97
NOV 13 2007
PATENT & TRADEMARK OFFICE

DAC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTENTION: HONORABLE COMMISSIONER FOR PATENTS

In re the Patent of: **OKANO, Fumio, et al.** P.T.O. Confirmation No.: 3936

Patent No. **7,292,271** Issued: **November 6, 2007**

For. **PROCESS AND APPARATUS FOR TAKING SLOW MOTION PICTURE, AND PROCESS AND APPARATUS FOR TAKING AND PLAYING SLOW MOTION PICTURE**

PETITION UNDER 37 CFR §1.183

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

Mail Stop DAC

November 13, 2007

Sir:

It is requested that a Certificate of Correction be issued to correct the designation of the assignee's name in the above-identified patent.

The error to be corrected was the result of applicants' failure to properly complete the PTO L-85b form when paying the Issue Fee in the application which issued as the patent. The failure to properly designate the assignee information was an inadvertent clerical error.

A proposed Certificate of Correction is submitted herewith along with a check in the amount of $230.00; $100.00 fee for the Certificate of Correction and $130.00 fee for filing this Petition. If any other fees are due, please charge the same to our Deposit Account No. 23850.

Adjustment date: 07/17/2008 CKHLOK
11/14/2007 SZEWDIE1 00000058 012340 7292271
01 FC:1464 130.00 CR

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

George N. Stevens
Attorney for Applicant
Reg. No. 36,938

07/17/2008 CKHLOK 00000005 012340 7292271
01 FC:1808 130.00 DA
11/14/2007 SZEWDIE1 00000058 012340 7292271
01 FC:1464 130.00 DA
02 FC:1811 100.00 DA

GNS/ht

Atty. Docket No. **030403**
Suite 400
1420 K Street, N.W.
Washington, D.C. 20005
(202) 659-2930

23850
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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4/5/07

In re Patent No. NOMURA ET AL.	:	
Issue Date: October 3, 2006	:	**DECISION GRANTING**
Appl No.: 10/405,086	:	**PETITION**
Filed: April 02, 2003	:	*37 CFR 1.324*
For: Superheated Steam Generator	:	

This is a decision on the petition filed 2-27-2007 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.

Philip H. Leung
Acting Supervisory Patent Examiner
Art Unit 3742
Technology Center 3700

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Bromberg and Sunstein LLP
125 Summer Street
Boston MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/405,093 received on 5/5/03 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

1771

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark DE 19714-9206

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JAN 3 0 2004

OFFICE OF PETITIONS

In reApplication of
McGregor et al
Application No. 10/405,104
Filed: March 31, 2003
Attorney Docket No. MI/219

: DECISION GRANTING
: PETITION

The above-identified application has been forwarded to this office for consideration of the paper styled "Request to Withdraaw a Request for Early Publication" filed December 22, 2003. The paper request that the application be withdrawn from early publication. The paper is properly treated as petition under 37 CFR 1.182.

The petition is granted.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $130 petition fee will be charged to Deposit Account No. 50-0388.

The application is being returned to the Technology Center for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-8122.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

MAR 3 2004

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

In re Application of:	:	
KURRISS, FRANCIS N.	:	DECISION ON PETITION TO
Application No. 10/405,120	:	MAKE SPECIAL
Filed: March 31, 2003	:	
Attorney Docket No: 02-11249	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 12, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

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

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

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

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

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA CA 90401-1211

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OFFICE OF PETITIONS

In re Application of	:	
Francis N. Kurriss	:	
Application No. 10/405,120	:	DECISION GRANTING PETITION
Filed: March 31, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 02-11249	:	

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

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 10, 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 October 14, 2004 was mailed July 7, 2004.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on . However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be submitted within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed May 4, 2004 and to the Notice of Publication Fee Due mailed July 23, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 5

Finnegan, Henderson, Farabow,
Garrett & Dunner
1300 I Street, N. W.
Washington, DC 20005

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AUG 2 2 2003
OFFICE OF PETITIONS

In re Application of
Chen-Kuan Eric Hong, et al.
Application No. 10/405,121
Filed: April 2, 2003
Attorney Docket No. 8710.0001-00

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition filed July 17, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on April 2, 2003. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition must be accompanied by:

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

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

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

The failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded

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

This application is being forwarded to Technology Center Art Unit 2818 for examination in due course.

Marianne E. Morgan

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TWO RENAISSANCE SQUARE
40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX, AZ 85004-4498

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APR 19 2006
OFFICE OF PETITIONS

In re Application of G. Michael Lemole JR. Application No. 10/405,132 Filed: April 1, 2003 Attorney Docket No. 57664.00002	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2005.

The petition is **APPROVED**.

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

The request was signed by David E. Rogers behalf of all the attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

This application is being referred to Technology Center AU 3738 to await a reply to the non-final Office mailed February 27, 2006.

David Bucci
Petitions Examiner
Office of Petitions

cc: G. MICHAEL LEMOLE, Jr. M.D.
9029 N. 28TH STREET
PHOENIX, AZ 85028

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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HOLLAND & HART, LLP (LANX, LLC)
INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 8749
DENVER, CO 80201-8749

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NOV 21 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
G. Michael Lemole, Jr.
Application No. 10/405,132
Filed: April 1, 2003
Attorney Docket No. None

This is a decision in response to the petition, filed June 21, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on January 22, 2007. On June 21, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3738 for consideration of the response filed June 21, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 14 2004

Paper No. 092104

DUANE MORRIS LLP
100 College Road West,
Suite 100
Princeton, NJ 08540

In re Application of:
KURTZ *et al.*
Serial No.: 10/405,159
Filed: April 02, 2003
Attorney Docket No.: **53597.1501**

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 02, 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. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 North East Road
Willow Grove, PA 08540

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BOHAN, MATHERS & ASSOCIATES, LLC
P O BOX 17707
PORTLAND, ME 04112-8707

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DEC 1 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jonathan Amory :
Application No. 10/405,194 :
Filed: April 2, 2003 :
Attorney Docket No. 02-107 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 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 July 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on October 8, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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.

The 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

MAILED

JUN 04 2003

Technology Center 2600

In re Application of:
Wilker et al.
Application No. 10/405,255
Filed: April 3, 2003
For: SAFETY SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed on April 3, 2003 under MPEP 708.02 (IV), applicant's age.

A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by applicant stating that she is more than sixty five years old. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application will be forwarded to the examiner for expedited action.

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

OIPE JC151
AUG 0 2 2004
PATENT & TRADEMARK OFFICE

08/03/04 Det. Dec. IFW 1745

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assignee: KULITE SEMICONDUCTOR PRODUCTS

Serial No.: 10/405267

Filed: April 2, 2003

For: FUEL CELLS EMPLOYING NANOSTRUCTURES

Patent No:

Issue Date:

Atty. Dkt. N0843-00095

Date: July 27, 2004

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
11/26/04

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Dear Sir:

Please withdraw me as attorney for the above-identified patent/patent application, and all the attorneys/agents of record.

The reason for this request is that the inventor(s) or the assignee of record has requested that the file be transferred to the below-named law firm.

Please change the correspondence address and direct all future correspondence to:

Plevy & Howard
600 North Easton Road
Willow Grove, PA 19090

Respectfully submitted,

Paul A. Schwarz, Esq.
Reg. No. 37,577

Duane Morris LLP
100 College Road West, Suite 100
Princeton, NJ 08540
609-919-4408

PTN\46919.1

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
Application No. 10/405,267
Filed: April 2, 2003
Attorney Docket No. Kulite-89

: 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 February 27, 2006 (certificate of mailing date February 24, 2006), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

37 CFR §1.78(a)(2)(iii) requires that a delayed claim for benefit be included in an application data sheet or the specification must contain or be amended to contain the reference in the first sentence following the title. The amendment filed with the present petition amends the

specification to add the prior-filed applications to the **second** paragraph following the title.

Accordingly, before the petition under 37 CFR §1.78(a)(3) can be granted, a renewed petition and a substitute amendment to correct the above matter 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:
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

Any questions concerning this matter may be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Ilya Zborovsky
6 Schoolhouse way
Dix Hills, NY 11746

In re Application of	:	
Anatoly Kokush	:	
Application No. 10/405,270	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(a), first filed August 15, 2004, and again on August 19, 2004, and April 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned on August 3, 2003, for failure to file a timely response to the Notice to File Corrected Application Papers mailed June 2, 2003, which set a shortened period for reply of two-months from the mailing date of the notice. Extensions of time under 37 CFR 1.136(a) were not available. The notice required replacement drawings and a new oath or declaration to be filed. No response was received within the allowable period and the application became abandoned on August 3, 2003. A Notice of Abandonment was mailed on June 14, 2004.

Replacement drawings and an oath or declaration are noted as being received on August 15, 2004.

Deposit account 26-0085 will be charged $55.00 for the instant petition fee.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 4

AMIN & TUROCY, LLP
24TH FLOOR
NATIONAL CITY CENTER
1900 EAST 9TH STREET
CLEVELAND, OH 44114

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Lyons et al.
Application No. 10/405,272
Filed: April 2, 2003
Attorney Docket No. H0389

ON PETITION

This decision concerns the July 14, 2003 "Petition to Correct Filing Date" which is being properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

The petition requests a filing date of April 2, 2003 rather than the presently accorded filing date of April 1, 2003, on the basis that the application was deposited on April 2, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

In support, the petition is accompanied by a copy of an "Express Mail" mailing label bearing the number "EL798607896US." The same number also appears on the application transmittal that itemizes the application papers being deposited, as well as the certificate of mailing. Although the mailing label includes a penned-in April 1, 2003 "date-in," the Office has verified through the electronic database provided to the USPTO by the USPS that the package deposited with this mailing label had been accepted by the USPS on April 2, 2003 at 4:18pm. The petition is thus granted.

No fee is required. The $130 petition fee charged to Deposit Account No. 50-1063 on July 15, 2003 has been reversed.

The application is being returned to the Office of Initial Patent Examination for correcting the filing date to April 2, 2003, and for mailing a corrected filing receipt reflecting this filing date. Upon completion of pre-examination, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Raghunath Padiyath et al :
Application No. 10/405,284 :
Filed: April 2, 2003 :
Attorney Docket No. 58276US002 :

ON PETITION

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

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2879 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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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
(FORMERLY KIRKPATRICK & LOCKHART LLP)
75 STATE STREET
BOSTON, MA 02109-1808

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OFFICE OF PETITIONS

In re Application of	:	
Hendrick Klaas Kuiper, et. al.	:	
Application No. 10/405,290	:	ON PETITION
Filed: March 28, 2003	:	
Attorney Docket No. K0001/7001P1	:	

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

The application became abandoned for failure to reply to the non-final Office action mailed January 12, 2005.

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

The Office hereby acknowledges receipt of $510 for a three (3) month extension of time filed on September 19, 2005. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 3743, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV 22 2004

William A. Collard
Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

Paper No. 6

In re Application of Errolson Hugh et al Serial No. : 10/405,293 Filed : April 2, 2003 For : Wearing Apparel for the Upper Part of the Body	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed August 4, 2004, to review the holding of abandonment mailed July 27, 2004 for failure to respond to the Office action mailed December 18, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response; the response bearing a certificate of facsimile transmission dated March 16, 2004. Petitioner has also included a copy of the Auto-Reply Facsimile Transmission from the Patent Office confirming the successful transmission of the papers in question on March 16, 2004.

In view of the above, the Notice of Abandonment mailed July 27, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed March 16, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/10/26/04

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ALEXANDRIA, VA 22313-1450
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SEP 2 4 2004

In re Application of	:	
Schultz, Leonard	:	NOTICE OF WITHDRAWAL
Serial No. 10/405,297	:	FROM ISSUE
Filed: April 2, 2003	:	UNDER 37 CFR 1.313(b)
For: SMOKE EVACUATION SYSTEM	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to at Duane Smith (571) 272-1166.

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

for

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

cc: Allowed Files

#7
DW

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AUG 4 2004

OFFICE OF THE DIRECTOR
TC 3600

Carlson, Gaskey & Olds, P.C.
400 West Maple Road
Suite 350
Birmingham, MI 48009

In re Application of
Franz-Helmut Holl et al.
Application No. 10/405,327
Filed: April 2, 2003
For: VEHICLE BRAKE ASSEMBLY HAVING AN ASSEMBLY OPENING AND METHOD OF ASSEMBLY THEREFOR

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on June 11, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed October 28, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

KJD/vdb: 7/28/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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United States Patent and Trademark Office
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SILLS CUMMIS EPSTEIN & GROSS P.C.
ONE RIVERFRONT PLAZA
IP DEPARTMENT
NEWARK NJ 07102

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OFFICE OF PETITIONS

In re Application of	:	
Panitch et al.	:	
Application No. 10/405,339	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. ABR0001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 27, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed October 6, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 7, 2005. A Notice of Abandonment was mailed May 1, 2006.

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). The record indicates that Arizona Board of Regents, which acts on behalf of Arizona State University, was responsible for prosecution of the application when the reply necessary to avoid abandonment was due. In the instant petition, the statement "AZTE was no longer interested in pursuing the application," and a letter was sent to the inventor, inviting her to prosecute the application. Further, "the letter indicated that in the event that the inventor did not license the technology by April 29, 2006, the 'technology will fall into the public domain and the ability to obtain patent protection will be permanently lost.'" From the above statements, the application appears to have been *intentionally* abandoned by the responsible party. The fact that inventor may not have received the aforementioned letter is irrelevant as she was not the responsible party at the time of abandonment.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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ONE ROCKEFELLER PLAZA
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NEW YORK NY 10020

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OFFICE OF PETITIONS

In re Application of	:	
Panitch et al.	:	
Application No. 10/405,339	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. MOE010-249644	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition continues to lack item(s) (3). As petitioners have now filed a Petition for Revival of an Application for Patent Abandoned Unavoidable under 37 CFR 1.137(a) on March 4, 2008, the instant petition is dismissed. A petition decision on the Petition under 37 CFR 1.137(a) will be issued in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

---

[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).

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OFFICE OF PETITIONS

In re Application of
Alyssa Panitch et al.
Application No. 10/405,339
Filed: April 1, 2003
Attorney Docket No. MOE010-249644

ON PETITION

This is a decision on the petition filed March 4, 2008, to revive the above identified application under 37 CFR 1.137(a)[1] .

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

A Restriction Requirement was mailed October 6, 2005 and set a one (1) month shortened statutory period for reply. No response having been filed, the application became abandoned November 8, 2005. Accordingly, the Notice of Abandonment was mailed May 1, 2006.

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".[2] 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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]35 U.S.C. § 133.

> 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.[3]

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).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

Petitioner asserts that the delay in filing a proper response to the Office Action was due to a break down in communication between the inventors, who subsequently became licensees, and the assignees in that the respond-by action date for the inventors to sign the licensing agreement was April 29, 2006, however the letter from Arizona Technology Enterprises (AzTE), the technology commercialization arm for Arizona State University, the assignee of the above referenced application, informing Dr. Panitch and Dr. Seal of the opportunity to take ownership was dated February 15, 2007, which was well past the response deadline. This such action on the part of the assignee, petitioners argue, however made it impossible for Dr. Panitch and Dr. Seal to respond before the April 29, 2006 deadline.
Furthermore, Dr. Panitch and Dr. Seal argue that they signed a letter to AzTE, acknowledging their interest and exercising their options to become licensees. The actual licensing agreement however, is not of record. Even if Dr. Panitch and Dr. Seal were in fact licensees, they did not become licensees until after the application became abandoned as they were not offered the opportunity to become licensees until February 27, 2007 and the application became abandoned November 8, 2006.

More importantly however, the record shows that the assignee of record, who had the

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[3] 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).

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

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

entire right, title and interest in the captioned application on the date that the captioned application became abandoned, intentionally abandoned the captioned application as follows:

Arizona Board of Regents ("ABOR") was the assignee of record for the captioned patent application at the time the captioned patent application was abandoned; The assignment was recorded with the USPTO on April 1, 2003 at Reel/Frame 013940/0401; By virtue of a Revocation and Power of Attorney filed May 12, 2004, the Power of Attorney was given to the Attorneys associated with Customer Number 020306 or McDonnell Boehnen Hulbert & Berghoff. The Office Action dated October 6, 2005 was mailed to McDonnell Boehnen Hulbert & Berghoff as the attorneys of record responsible for prosecution of the above captioned application;

The authority by which the inventors argue gives them the right to prosecute the application as well as file the instant petition to revive is based on a letter which they received offering them the opportunity to become licensees. They argue that once they signed the letter, Dr. Panitch and Dr. Seal, by virtue of their license in the patent application, became the parties responsible for preparing, filing, prosecuting and maintaining the patent applications for this intellectual property. Further, they argue that it was never the intention of the assignee to abandon the application and the fact that they did not receive the letter from the assignee until after the application became abandoned, caused an unintentional and unavoidable delay.

Futures Technology, Ltd. v. Quigg, 7 USPQ 2d (1988) found that an equitable owner has the right to rely on the patent owner's obligations to prosecute under a contract, thus allowing an application to be revived under 37 C.F.R. §1.137(a). While petitioners argue that they are entitled to revive the captioned application under 1.137(a) since they were not informed about the Office Action, the Abandonment or the opportunity to become licensees until it was too late, the evidence presented does not support a finding that Dr. Panitch and Dr. Seal were equitable owners of the above captioned application.

Instead, the record shows that the captioned application was intentionally abandoned by the assignee who had entire right, title and interest in the captioned application at the time of abandonment.

This Office is very specific as to who has the right to, and therefore may act in an application. The inventor is presumed to be the owner of a patent application and any patent that may issue therefrom, unless there is an assignment."[6]

At the time this application became abandoned, it was the assignee that this office recognized as holding the rights in this application and only the assignee's conduct is relevant to the question of the intentional abandonment of the application. A review of

[6] 37 CFR 3.73(a)

the record reveals nothing that clearly assigns ownership of the Application to Dr. Panitch and Dr. Seal at the time the application was intentionally abandoned. Thus, Dr. Panitch and Dr. Seal had no rights in this application, recognizable in this Office, at that time.

The Office's position, with respect to this circumstance, is set forth in the MPEP, as follows:

> The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See Kim v. Quigg, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid abandonment, the applicant's actions, inactions or intentions are irrelevant under 37 CFR 1,137, unless the third party has reassigned the application to the applicant prior to the due date for the reply. Id.
>
> Likewise, where the applicant permits a third party (whether a partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See Winkler, 221 F. Supp. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See Futures Technology Ltd. v. Quigg 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

The letter of February 27, 2007 offering the opportunity to Dr. Panitch and Dr. Seal to enter into a License Agreement created the possibility that Dr. Panitch and Dr. Seal Pavilion would become licensees not assignees with entire right, title and interest in the application. As of the date the Office Action was mailed as well as the subsequent Abandonment of the application, the invention had not been assigned to Dr. Panitch and Dr. Seal. Thus, at the time of abandonment, Dr. Panitch and Dr. Seal had neither equitable nor legal ownership of the application. Neither are the benefits from the successful prosecution of the application that would accrue to Dr. Panitch and Dr. Seal

Pavilion sufficient to constitute an equitable interest in the application. During the period pertinent to the prosecution of the application (October 5, 2006 -November 8, 2006), "ABOR", the assignee was free to prosecute (or not prosecute) the application as it chose.

In view thereof, consistent with the decisions on petition under 37 CFR 1.137(b), mailed August 17, 2007 and November 6, 2008, the petition must be dismissed.

Since petitioner has failed to demonstrate that they were or are equitable owners of the patent application, whether they acted unintentionally or as reasonably prudent persons is irrelevant.

Finally, in view of the above, it hasn't been demonstrated that the various Revocations and Powers of Attorney executed by Dr. Panitch and Dr. Seal are proper. Any request for reconsideration should persuasively address the issue as well as provide proper statements under 37 CFR 3.73(b). As a courtesy however, a copy of this decision is being mailed to the current Attorneys on record.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
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250 PARK AVENUE
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APR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Kosuge, et al.
Application No. 10/405,340
Filed: 3 April, 2004
Attorney Docket No: (None)

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3) and 37 C.F.R. §1.55(c), filed 7 September, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. §120 and 35 U.S.C. §119(a)-(d) for benefit of the claim to the earlier filed Application 09/802,900 filed 12 March, 2001, and to earlier-filed Japanese Application Nos. 2000-117153, filed 15 March, 2000, and 2001-040832, filed 16 February, 2001.

The Office regrets the delay in addressing this matter. However, the petition was only received in Office of Petitions at this writing.

The petition is **DISMISSED**.

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

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

The petition fails to comply with the first item above.

The concurrently filed amendment to add the prior-filed application(s) "[a]t page 1, between lines 3 and 4" of the specification is not acceptable as drafted because:

- it appears to set forth an incorrect application number (to wit: 09/892,900, rather than 09/802,900); and

- the application data sheet (ADS) or the oath/declaration is the proper location in the application to set out claim(s) for prior filed foreign applications, not as an amendment to the first line of the specification.

As to the benefit claim under 37 C.F.R. §1.55(c), a petition under 37 C.F.R. §1.55(c) to accept an unintentionally delayed claim for priority requires:

- the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

- 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 C.F.R. §1.63(c)(2)) or in an Application Data Sheet (37 C.F.R. §1.76(b)(6);**

- the surcharge as set forth in 37 C.F.R. §1.17(t);

- a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

- the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

While the petition satisfies the conditions under 37 C.F.R. §1.55(c) for acceptance of the unintentionally delayed claim for benefit of the above-noted foreign (Japanese) applications, before the petition(s) under 37 C.F.R. §1.78(a)(3) and §1.55(c) can be granted, a renewed petition under 37 C.F.R. §1.78(a)(3) and §1.55(c)and a substitute amendment[1] setting forth the correct prior application number(s) is required.

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[1] *Note* 37 C.F.R. 1.121

Application No. 10/408,106

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

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22305

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JUN 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Kazuhiro Kosuge et al	: DECISION ON PETITIONS
Application No. 10/405,340	: UNDER 37 CFR 1.78(a)(3)
Filed: April 3, 2003	: AND UNDER 37 CFR 1.55(c)
Attorney Docket No. INO-C326	:

This is a decision on the renewed petition, filed June 9, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/802,900, filed March 12, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed Japanese Application Nos. 2000-117153, filed March 15, 2000 and 2001-040832, filed February 16, 2001, as set forth in the concurrently filed amendment and Application Data Sheet (ADS). This is also a decision on the petition filed of even date entitled "Petition under 37 CFR 1.314 for Deferral of Issuance," which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.[1]

The petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) are **GRANTED**.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

[1] In view of the filing of the request for continued examination, it would be inappropriate to defer issuance of this application. Therefore, the petition is being treated as a petition to withdraw the instant application from issue pursuant to the provisions of 37 CFR 1.313(c)(2).

(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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as well as in an ADS, as provided by 37 CFR 1.78(a)(2)(iii) and 37 CFR 1.76(b)(5); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Petitioner is advised that, while the foreign claim for priority was present on filing (i.e., in the declaration), the claim could not be accepted since the relationship of intermediate Application

No. 09/802,900 was not specified, resulting in the filing date of the foreign applications being more than one year from the filing date of the present application without the acceptance of the intermediate application. Therefore, the petition is also being treated as one to accept a late claim for priority to the above-noted, prior-filed foreign applications. No additional petition fee is required for the treatment of the petition also as one under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on April 3, 2003, which is after November 29, 2000, and intermediate Application No. 09/802,900, filed December 3, 2001, was filed within 12 months of March 15, 2000 and February 16, 2001, which are the earliest filing dates of the foreign applications to which benefit is claimed. The declaration filed on April 4, 2003 and the ADS accompanying the instant petition also identify the foreign applications for which priority is claimed by application number, country and filing date.[2] Pursuant to petitioner's authorization in the petition dated September 7, 2004, the $1,330 surcharge will be charged to petitioner's Deposit Account No. 12-2174. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is granted.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

As to the petition under 37 CFR 1.313(c)(2):

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

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[2] There is no indication that the certified copies of the prior-filed foreign applications have been received. The certified copies of the foreign applications must be submitted prior to issuance in order for this application to be entitled to claim priority thereto.

Petitioner is advised that the issue fee paid on November 14, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[3]

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

This application is being forwarded to Technology Center Art Unit 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 35 U.S.C. 119(a)-(d) for the benefit of the prior-filed applications.

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

ATTACHMENT: Corrected Filing Receipt

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

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OFFICE OF PETITIONS

HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX VA 22030

In re Application of	:	
Chengson et al.	:	
Application No. 10/405,341	:	ON APPLICATION FOR
Filed: April 13, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0023-0149	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed January 14, 2010. The request will be treated under 37 C.F.R. § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand nine hundred seventy-four (1,974) days, not one thousand three hundred ninety (1,390) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Sandy Dunnning :
Application No. 10/405,380 : DECISION ON PETITION
Filed: April 2, 2003 :
Attorney Docket No. DD44/01 :

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

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed May 5, 2003. The non-final Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 6, 2004. A Notice of Abandonment was mailed on November 30, 2004.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

EDWARD P. DUTKIEWICZ, ESQ.
EDWARD P. DUTKIEWICZ, P.A.
640 DOUGLAS AVENUE
DUNEDIN FL 34698-7001

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dunning	:	
Application No. 10/405,380	:	
Filed: 2 April, 2003	:	
Attorney Docket No. DD44/01	:	

This is a decision on a petition filed on 27 March, 2006, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the Notice of Allowance/Allowability and Fees Due mailed on 13 December, 2005, with reply due under a non-extendable deadline on or before 13 March, 2006;
- the instant application went abandoned by operation of law after midnight 13 March, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- Petitioner filed the instant petition on 27 March, 2006, with, *inter alia*, a reply in the form of fees due, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to
Unintentional Delay

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

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

CONCLUSION

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

The application is released to the Publications Branch to be processed into a patent in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LINDA J. THAYER
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Yukhin et al.	:	TO WITHDRAW
Application No. 10/405,412	:	FROM RECORD
Filed: April 1, 2003	:	
Attorney Docket No. 24816-01000	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2005.

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

A review of the file record indicates that on October 4, 2005 the power of attorney to Finnegan, Henderson, Farabow, Garrett & Dunner 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: Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View CA 94041

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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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NOV 06 2006

OFFICE OF PETITIONS

In re Application of	:	
MAO	:	
Application No. 10/405,426	:	DECISION ON PETITION
Filed: April 02, 2003	:	TO WITHDRAW
Attorney Docket No. 3002083-0009	:	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 25, 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 Joan T. Kluger on behalf of all attorneys of record who are associated with Customer No. 22469. All attorneys/agents associated with the Customer No. 22469 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: GUIQUAN MAO
HUAWEI SERVICE CENTRE BUILDING, KEFA RD.,
SCIENCE-BASED INDUSTRIAL PARK,
SHENZHEN CITY
GUANGDONG PROVINCE, 518057 CN

cc: STEVEN I. HIGHLANDER
FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701-2978

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/405,426	04/02/2003	Guiquan Mao	3002083-0009

CONFIRMATION NO. 9525

OC000000021118009

22469
SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

Date Mailed: 11/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2006.

- 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.

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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NOV 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Timothy J. Diekmann et al	:	
Application No. 10/405,446	:	DECISION GRANTING PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 10(c)
Attorney Docket No. 57448US004	:	

This is a decision on the petition under 37 CFR 1.10(c), filed August 11, 2003, requesting that the above-identified application be accorded a filing date of April 2, 2003, rather than the presently accorded date of March 2, 2003.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 2, 2003 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 182271645 US showing a stamped postal date of April 2, 2003. The same Express Mail receipt number was placed on the Certificate of Mailing of the original patent application transmittal letter.

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 April 2, 2003 at the Saint Paul, MN USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on April 2, 2003.[1] Accordingly, the instant application is entitled to a filing date of April 2, 2003, and has been so accorded.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

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

---

[1] It appears that the assignment of a filing date of March 2, 2003 rather than April 2, 2003 was a typographical error by the USPTO.

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/405,447	04/02/2003	3765	375	10921.170US01	16	9	1

CONFIRMATION NO. 7814

CORRECTED FILING RECEIPT

OC000000011561175

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Date Mailed: 12/23/2003

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)

Hiroko Ota, Osaka-shi, JAPAN;

Assignment For Published Patent Application

CLOVER MFG. CO., LTD., Osaka-shi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-110692 04/12/2002

If Required, Foreign Filing License Granted: 05/20/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Tool for making decorative knot

Preliminary Class
289

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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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Patrick Charles O'Sullivan :
Application No. 10/405,463 : DECISION ON PETITION
Filed: April 3, 2003 :
Attorney Docket No. :
WILY-01037USO

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 20, 2006. A Notice of Abandonment was mailed on April 19, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3) above.

The Commissioner **may** accept the delayed submission of a reply to an outstanding Office action provided the delay is shown to the satisfaction of the Commissioner to have been "unintentional." That is, the plain language of the statute permits revival of an abandoned application provided the delay in submitting the reply was "unintentional." See Centigram Communication Corp. v. Lehman, 862 F.Supp. 113, 118, 32 USPQ2d 1346, 1350 (E.D. Va. 1994), *appeal dismissed,* 47 F.3d 1180 (Fed. Cir. 1995). Nevertheless, the congressional intent is that the USPTO acceptance of a delayed reply is discretionary, and contingent upon a showing satisfactory to the Director, that the delay was "unintentional." Id. at 116, 32 USPQ2d at 1348.

A review of the assignment records of the USPTO discloses that, at the time this application became abandoned, Timestock, Inc. was the owner of the entire right, title and interest in this patent application. The current assignee, Computer Associates Think, Inc., did not become the owner of this patent application until April 4, 2007, the date of execution of the assignment from Timestock, Inc., to Computer Associates Think, Inc., and did not intervene in the prosecution of this application until April 12, 2007.

When the issue of revival is addressed, the focus must be on the rights of the parties as of the time of abandonment. See Kim v. Quigg, 718 F.Supp. 1280, 1284, 12 USPQ2d 1604, 1607 (E.D. Va. 1989). Accordingly, a statement of unintentional delay must be submitted by the party owning the patent application at the time this application became abandoned. Petitioner should note that a delay caused by the deliberate decision not to take appropriate action within a statutorily prescribed period does not constitute an unintentional delay within the meaning of 35 U.S.C. § 41. In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Such intentional action or inaction precludes a finding of unintentional delay. In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988); Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished). Moreover, that delay is binding upon successors in title to Timestock, Inc. See, Winkler v.

Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963). Petitioner, as an asserted successor in title, remains bound by the decisions, actions, or inactions, of Timestock, Inc., including the decisions, actions, or inactions, which resulted in the failure to timely reply to the Office action of September 19, 2006. Id.; Kim supra.

Timestock, Inc., as the owner of the entire interest at the time the maintenance fee fell due, was free to deal with the patent application as Timestock, Inc., willed. See Garfield v. Western Electric Co., 298 F.659 (S.D.N.Y. 1924). It follows that it is immaterial to the delay during the time the application was pending that petitioner may have been unaware of, or would not have acquiesced to, Timestock, Inc.'s actions or inactions. Kim, supra. That petitioner, upon its acquisition of its rights in this patent application, may have acted with dispatch, is immaterial to, and does not overcome, the delay attributable to Timestock, Inc. Id.

The statement of unintentional delay is presently not considered to have been submitted by someone having an adequate, timely, interest in this patent application at the time of abandonment nor is there a persuasive showing that the delay was unintentional as to Timestock, Inc. In this regard, and as noted above, Computer Associates Think, Inc., did not become the owner of this patent application until April 4, 2007, the date of execution of the assignment from Timestock, Inc., to Computer Associates Think, Inc., which is after the date of abandonment of this application. Petitioner has not presented copies of any letters, emails, or an assignment document from Timestock, Inc., to him that would support a showing that he had any interest in this patent application prior to its abandonment.

For the reasons stated above, petitioner has not demonstrated that he was a proper party in interest at the time of abandonment of this application.

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Patrick Charles O'Sullivan :
Application No. 10/405,463 : ON PETITION
Filed: April 3, 2003 :
Attorney Docket No. WILY-01037US0 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2006 which set a statutory shortened period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 20, 2006.

The petition decision mailed December 5, 2007 indicates the petition under 37 CFR 1.137(b) filed June 1, 2007 was dismissed as failing to provide a proper statement of unintentional delay.

The instant renewed petition includes a statement of unintentional delay signed by the president of Timestock, Inc. which was the assignee at the time of abandonment.

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

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

The application file is being referred to Technology Center Art Unit 2144 for consideration of the amendment in due course.

Christopher Betts

for David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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JAN -8 2004

Paper No. 4

In re Application of	:	
Elyse Clark	:	
Serial No. 10/405,468	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO MAKE SPECIAL
For: GIFT BAG WITH NAPPED	:	
FILAMENTARY SURFACE	:	

Applicant's petition, filed July 9, 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

E. Rollins-Cross, Director
Technology Center 3700

Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street, NW
Washington, DC 20037-1526

BEST AVAILABLE CO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091118

DATE : November 18, 2009

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction on Patent No.: 7,323,134

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:

Request dated 10/28/2008 is approved.

SPE: /Steven P. Griffin/ **Art Unit** 1791

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LEXINGTON KY 40550-0999

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Cousins et al.	:	
Application No. 10/405,517	:	DECISION ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 2002-0429.02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before June 16, 2009, as required by the Notice of Drawing Inconsistency With Specification (Notice) mailed April 10, 2009. Accordingly, the date of abandonment of this application is June 17, 2009. A Notice of Abandonment was mailed July 1, 2009.

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

Further, 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.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PRICE, HENEVELD, COOPER, DEWITT, & LITTON
LLP/GENTEX CORPORATIOIN
695 KENMOOR, S.E., P.O. BOX 2567
GRAND RAPIDS, MI 49501

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JAN 0 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
John W. Carter et al	:	
Application No. 10/405,526	:	
Filed: April 2, 2003	:	
Attorney Docket No. GEN10 P-432	:	

This is a decision on the petition, filed December 27, 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 April 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2872 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.:20061228

DATE : December 28, 2006

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 7126210

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: Wael M. Fahmy **Art Unit** 2814

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AUG 16 2007

OFFICE OF PETITIONS

ALCATEL LUCENT
INTELLECTUAL PROPERTY & STANDARDS
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

In re Application of
Kamakshi Sridhar, et al.
Application No. 10/405,530
Filed: April 2, 2003
Attorney Docket No. 135999CIP

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 30, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). The delay in responding is regretted; however, the petition was just recently referred to the Office of Petitions for consideration.

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 April 10, 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 petition is found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 22, 2007 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on June 11, 2007. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. In view of the rescinding of the nonpublication request, the $300 publication fee is due. Accordingly, a Notice of Publication Fee Due has been included with this decision. **Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.**

This application is being forwarded to Publishing Division to await a reply to the Notice of Allowance and Fees(s) Due and the above-mentioned Notice of Publication Fee Due.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENTS:

(1) Notice Regarding Rescission of Nonpublication Request
(2) Notice Of Publication Fee Due

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/405,530	04/02/2003	Kamakshi Sridhar	135999CIP

CONFIRMATION NO. 4113

24587
ALCATEL LUCENT
INTELLECTUAL PROPERTY & STANDARDS
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

Date Mailed: 08/15/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/22/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/405,530	04/02/03	Kamakshi Sridhar	135999CIP

ALCATEL LUCENT
INTELLECTUAL PROPERTY & STANDARDS
3400 W. PLANO PARKWAY, MS LEGL2
PLANO TX 75075

DATE MAILED: August 16, 2007

NOTICE OF PUBLICATION FEE DUE

The above-identified application was filed on or after November 29, 2000 and a nonpublication request in compliance with 37 CFR 1.213 was included with the application on filing.

Since the application has been allowed, a publication fee is due.

The fee due is $300. No small entity discount is available. See 37 CFR 1.18(d).

The payment of publication fee should be mailed to:

Mail Stop Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Alternatively, an authorization to charge the publication fee to a deposit account or payment by credit card (form PTO-2038) may be submitted via facsimile transmission to (703) 746-4000.

The publication fee must be submitted within THREE MONTHS from the mailing date of this notice to avoid abandonment of the application. No extensions of time under 37 CFR 1.136(a) or (b) are available. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. *See* 37 CFR 1.211(e).

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

A copy of this notice should be returned with any reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUN 28 2004

In re Application of
Joseph K. So
Application No. 10/405,542
Filed: April 2, 2003
Attorney Docket No. 010028U1US

: DECISION ON PETITION

This is a decision on the petition filed on April 13, 2004 by which petitioner requests that the finality of the rejection dated March 26, 2004 be held to have been premature, and that a new, nonfinal action be prepared. This petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is denied.

It appears from the petition and from the record that in the first Office action, dated January 30, 2004, all claims were rejected except for dependent claim 7. The examiner's action stated that:

> "Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable *if* **rewritten in independent form including all of the limitations of the base claim and any intervening claims.**" (Emphasis supplied.)

Claim 7 originally read:

> "The method of claim 6 including the additional step of treating the polishing pad with the polymeric section for more than one polishing cycle **before conditioning the polishing surface with the abrasive section.**" (Emphasis supplied.)

In the amendment dated February 20, 2004, petitioner, among other things, canceled claim 7 and amended parent claim 6. As amended, claim 6 now read:

> " A method of treating the surface of a polishing pad with a conditioning tool comprising the steps of:
> treating the polishing pad with a polymeric section of the conditioning tool **for more than one polishing cycle** to treat a polishing surface of the polishing pad;
> manipulating the conditioning tool to engage an abrasive section of the conditioning tool; and
> conditioning the polishing pad with the abrasive section of the conditioning tool to provide the polishing surface of the polishing pad with a conditioned surface." (Emphasis supplied.)

The only amendment to claim 6 as it read when the examiner objected to dependent claim 7 is the emphasized portion shown above.

It is clear from a comparison of original claim 7 and amended claim 6 that, contrary to the position taken on page one of the petition, the February 20, 2004 amendment did not incorporate "all of the limitations of claim 7" because the limitation reading "before conditioning ... with the abrasive section" was not included in amended claim 6. Thus, petitioner's amendment did not comply with the conditions set forth in the January 30, 2004 Office action for the allowance claim 7 if presented in independent form. Amended claim 6 was, therefore, simply an amended claim presenting a new limitation.

A review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP § 706.07(a) in making the next action final based upon newly applied prior art. In fact, paragraph 2 of final rejection contains a rejection in which it is specifically stated that the prior art applied renders claim 6 unpatentable because it teaches **simultaneous** treating and polishing. Thus, the rejection was properly made final because the amendment necessitated the application of new prior art which taught both treating and polishing which had previously been inapplicable to claim 7 because claim 7, as objected to, required that the treating occur before the conditioning. While the final rejection erroneous "rejects" claim 7, which was canceled and therefore no longer pending, this is harmless error not having any effect on the examiner's having made the Office action final, or upon the relief requested.

For the foregoing reasons it appears that the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the March 26, 2004 Office action final. Therefore, there is no basis for granting any of the relief requested. Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

The application remains pending and is awaiting a reply to the final Office action.

PETITION DENIED.

E. Rollins-Cross, Director
Technology Center 3700

Rodel Holdings, Inc.
Suite 1300
1105 North Market Street
Wilmington, DE 19899

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

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of	:	
ChangFeng F. Xia, et. al.	:	
Application No. 10/405,590	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. TI-34004	:	

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on June 6, 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**.

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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of:	:	
Rezania et al.	:	
Application No. 10/405,594	:	DECISION ON
Filed: April 2, 2003	:	PETITION
Attorney Docket Number: LFS-5013	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed April 24, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed October 7, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 8, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has filed a Response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1651 for processing of the Response.

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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HAHN AND MOODLEY LLP
SUITE 180
800 W EL CAMINO REAL
MOUNTAIN VIEW CA 94040

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of
Mukesh K. Patel
Application No. 10/405,600
Filed: April 1, 2003
Attorney Docket No.: **000006.P006X**

ON PETITION

This is a decision on the petition filed February 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 March 27, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 28, 2006. Accordingly, a Notice of Abandonment was mailed November 2, 2006.

This matter is being referred to Technology Center 2188 for appropriate action on the amendment filed February 23, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
Shinichiro Matsuo et al	:	
Application No. 10/405,636	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 100021-00125	:	

This is a decision on the petition, filed July 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 1, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2816 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. _____

Date : July 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Shinichiro Matsuo et al
Application No. :10/405,636
Filed :April 3, 2003

The above-identified application has been assigned Patent No. 7,078,939 and an issue date of July 18, 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 July 18, 2006:

"All reference to Patent No. 7,078,939 to Shinichiro Matsuo et al of Japan for LATCH-TYPE LEVEL CONVERTER AND RECEIVER CIRCUIT ACCURATELY AMPLIFYING LOW-AMPLITUDE SIGNALS AND RECEIVING COMMON-MODE INPUT SIGNALS HIGHER THAN A SUPPLY VOLTAGE appearing in the Official Gazette of July 18, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,533,048	: DECISION ON REQUEST FOR
MADHAVAN et al.	: RECONSIDERATION OF
Issue Date: May 12, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/405,640	: AND
Filed: April 3, 2003	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 2566-185	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 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 twelve (1,712) 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 twelve (1,712) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand seven hundred twelve (1,712) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,533,048 B2

DATED : May 12, 2009 **DRAFT**

INVENTOR(S) : Madhavan 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 1043 days

Delete the phrase "by 1043 days" and insert – by 1712 days--

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

In re Application of:
Querleux, Bernard, et al.
Serial No.: 10/405,646
Filed: Apr. 3, 2003
Docket: 08048.0044-00
Title: METHODS AND COMBINATIONS RELATING TO INFORMATION OBTAINED USING BRAIN IMAGING TECHNIQUES

DECISION ON PETITION

This is a decision on the petition filed on Jan. 19, 2007 by which petitioner requests withdrawal of the restriction requirement mailed May 4, 2006, and that all non-elected claims 21-69 be rejoined and examined on the merits. Claims 1-12 were elected for examination. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **granted.**

A review of the record reveals that the examiner issued a restriction requirement among four disclosed and claimed unrelated inventions and not disclosed as capable of use together and they have different designs, modes of operation and effects under M.P.E.P. § 802.01 and § 806.06. In the restriction requirement, the examiner divided all claims into four groups, namely, Group I discloses a method of determining information reflecting impact of a product on skin sensitivity using a brain imaging technique, Group II discloses a method of evaluating the sensitivity of skin, Group III discloses a method of marketing and promoting sales of a product, and Group IV discloses a method of assisting in formulation and/or selection of a cosmetic. On Jun. 5, 2006, the applicant elected Group I invention, claims 1-12 with traverse. The applicant argued that the claims are clearly related because they involve use of a brain imaging technique and related aspects of a brain imaging technique. The applicant also cited the specification at pages10-14 as an example, where the specification discloses exemplary embodiments where various aspects recited in the claims of Groups I-IV are used together. Indeed, claims 13-20 and 33-39 of Group

III, for example, are necessarily related to claim 1 of Group I because claims 13-20 and 33-39 depend upon claim 1. Thus, there is absolutely no evidence supporting the examiner's assertions about the subject matter in Groups I-IV being "different" and incapable of use together. Therefore, the applicant is of the opinion the restriction requirement was improperly made.

Discussion and Analysis

MPEP § 802.01 [R-5] Meaning of "Independent" and "Distinct" 35 U.S.C. 121 quoted in the preceding section states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one application. In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application. This raises the question of the inventions as between which the Director may require restriction. This, in turn, depends on the construction of the expression "independent and distinct" inventions. "Independent", of course, means not dependent>, or unrelated<. If "distinct" means the same thing, then its use in the statute and in the rule is redundant. If "distinct" means something different, then the question arises as to what the difference in meaning between these two words may be. The hearings before the committees of Congress considering the codification of the patent laws indicate that 35 U.S.C. 121: "enacts as law existing practice with respect to division, at the same time introducing a number of changes." The report on the hearings does not mention as a change that is introduced, the inventions between which the Director may properly require division. The term "independent" as already pointed out, means not dependent>, or unrelated<. A large number of inventions between which, prior to the 1952 Act, division had been proper, are dependent inventions, such as, for example, combination and a subcombination thereof; as process and apparatus used in the practice of the process; as composition and the process in which the composition is used; as process and the product made by such process, etc. If section 121 of the 1952 Act were intended to direct the Director never to approve division between dependent inventions, the word "independent" would clearly have been used alone. If the Director has authority or discretion to restrict independent inventions only, then restriction would be improper as between dependent inventions, e.g., the examples used for purpose of illustration above. Such was clearly not the intent of Congress. Nothing in the language of the statute and nothing in the hearings of the committees indicate any intent to change the substantive law on this subject. On the contrary, joinder of the term "distinct" with the term "independent", indicates lack of such intent. The law has long been established that dependent inventions (frequently termed related inventions) such as used for illustration above may be properly divided if they are, in fact, "distinct" inventions, even though dependent. I. INDEPENDENT The term "independent" (i.e., **>unrelated<) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions. See also MPEP § 806.06 and § 808.01. II. > RELATED BUT< DISTINCT Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc. In this definition the term related is used as an alternative for dependent in referring to inventions other than independent inventions. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art). See MPEP § 806.05(c) (combination and subcombination) and § 806.05(j) (related products or related processes) for examples of when a two-way test is required for distinctness. It is further noted that the terms "independent" and "distinct" are used in decisions with varying meanings. All decisions should be read carefully to determine the meaning intended.

M.P.E.P. § 806.06 [R-5] Independent Inventions Inventions as claimed are independent if there is no disclosed relationship between the inventions, that is, they are unconnected in design, operation, and effect. If it can be shown that two or more inventions are independent, and if there would be a serious burden on the examiner if restriction is not required, applicant should be required to restrict the claims presented to one of such independent inventions. For example: (A) Two different combinations, not disclosed as capable of use together, having different modes of operation, different functions and different effects are independent. An article of apparel and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example. (B) Where the two inventions are process and apparatus, and the apparatus cannot be used to practice the process or any part thereof, they are independent. A specific process of molding is independent from a molding apparatus that cannot be used to practice the specific process.

In the petition, petitioner points out that the claimed inventions are related because they involve use of a brain imaging technique and related aspects of a brain imaging technique as supported by pages 10-14 of the specification. The applicant also explained the relationship and usage of the claimed inventions in his election filed on Jun. 5, 2006. However, in the Office action of Sep. 22, 2006 when making the restriction requirement final, the examiner had not explained nor, did he rebut, as to why the claimed inventions are unrelated and not disclosed as capable of use together.

In judging the propriety of the current restriction requirement in question, the related inventions, as claimed, must be shown to be independent and distinct. The examiner must show that the claimed inventions of Groups I, II, III and IV

1.) are unconnected in design, operation and effect; or,

2.) have no disclosed relationship among the four disclosed inventions; or,

3.) have no disclosure showing the inventions capable of use together in accordance with the MPEP § 802.01 and § 806.06.

In the restriction requirement of May 4, 2006, the examiner merely made general statements in that Inventions I, II, III and IV are unrelated. The examiner did inform the applicant that inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are alleged not disclosed as capable of use together and they have different modes of operation, and effects. The examiner did not offer any explanation in this regard. Again, in response to the applicant's traversal while making the restriction requirement final, the examiner again failed to explain and rebut the applicant's arguments regarding the involvement of a brain imaging technique and their related aspects in all claimed inventions as supported by pages 10-14 of the specification.

The examiner did answer one unrelated argument regarding the non-elected dependent claims 13-20. The examiner stated that the fact that there is a claim number in the body of the claim does not imply dependency from another independent claim, since the claim number is not located in the preamble. The examiner's interpretation of dependent claims is unreasonable and not in accord with M.P.E.P. 2173.05(f)[1]. Nevertheless, in order to overcome the examiner's interpretation of the dependent claims 13-20, on Mar. 1, 2007, the applicant submitted an amendment replacing previous dependent claims 13-20 with new dependent claims 70-80 by placing a claim number in the preamble of each dependent claim. Subsequently, on Jun. 4. 2007, the examiner issued a final rejection to claims 1-12 and 70-72 and additionally withdrew consideration of newly added claims 73-80 based on constructive election (M.P.E.P. § 818.01 and § 821.03). The examiner merely alleged, without any supporting reasons, that claims 73-80 are directed to an invention that is independent or distinct from the originally claimed inventions and the new claims 73-80 are considered to be a change in scope as dependent from claim 1. This does not provide any justification in accordance with Office policy. Essentially, in the final Office action, the examiner failed to explain why dependent claims 73-80 are directed to another independent or distinct invention to justify the constructive election of inventions.

The distinctness between the claimed inventions has not been clearly explained by the examiner, and therefore, restriction requirement is not justified in light of the petitioner's explanation and supporting specification. In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement of May 4, 2006 is withdrawn. In view of the fact that the examiner failed to provide reasons as to why the newly added dependent claims 73-80

[1] MPEP 2173.05(f) Reference to Limitations in Another Claim A claim which makes reference to a preceding claim to define a limitation is an acceptable claim construction which should not necessarily be rejected as improper or confusing under 35 U.S.C. 112, second paragraph. For example, claims which read: "The product produced by the method of claim 1." or "A method of producing ethanol comprising contacting amylose with the culture of claim 1 under the following conditions ....." are not indefinite under 35 U.S.C. 112, second paragraph, merely because of the reference to another claim. See also Ex parte Porter, 25 USPQ2d 1144 (Bd. Pat. App. & Inter. 1992) where reference to "the nozzle of claim 7" in a method claim was held to comply with 35 U.S.C. 112, second paragraph. However, where the format of making reference to limitations recited in another claim results in confusion, then a rejection would be proper under 35 U.S.C. 112, second paragraph.

are directed to independent or distinct inventions in the final rejection of Jun. 4, 2007, then, the constructive election also is not justified. The examiner has been instructed to issue a new, non-final Office action on all claims not inconsistent with this decision.

Conclusion

For the reasons outlined above, the restriction requirements promulgated on May 4, 2006 and in the final rejection of Jun. 4, 2007 are hereby withdrawn.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3737 for further processing. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 15

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA GA 30339-5948

COPY MAILED

OCT 14 2003

OFFICE OF PETITIONS

In re Application of :
Christopher C. Yu, Douglas B. Alston, and :
Oral A. Christie :
Application No. 10/405,651 : DECISION ON PETITION
Filed: April 1, 2003 :
Attorney Docket No. 190251-1021 :
Title: INTEGRATED :
WIRELESS/WIRELINE REGISTRATION :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 1, 2003.

On April 1, 2003, the application was deposited, identifying Chirtopher C. Yu, Douglas B. Alston, and Oral A. Christie as joint inventors. The application was deposited without a fully executed oath or declaration[2]. On July 1, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply. As the instant petition was included on filing however, this Notice was mailed in error. As such, the Notice is hereby **VACATED**.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 Joint-inventor Christie did not execute the oath or declaration.

Petitioner has submitted the petition fee, a statement of the last known address of the non-signing joint inventor, and an acceptable declaration. As to the fourth requirement above, this requirement was met with a similar petition associated with the parent application.

As such, 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(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.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the 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. Petitioner will not receive future correspondence related to maintenance fees unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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

cc: Jones and Askew, LLP
2400 Monarch Tower
3424 Peachtree Road, N.E.
Atlanta, GA 30326

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Oral A. Christie
17771 NE 90th Street No. 4143
Redmond, WA 98052

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OCT 14 2003
OFFICE OF PETITIONS

In re Application of
Chirtopher C. Yu, Douglas B. Alston, and Oral A. Christie
Application No. 10/405,651
Filed: April 1, 2003
Attorney Docket No. 190251-1021
Title: INTEGRATED WIRELESS/WIRELINE REGISTRATION

LETTER

Dear Mr. Christie:

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, an agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you, on behalf of the deceased, pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA GA 30339-5948

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JUN 23 2006

OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

In re Application of
BORRELLI et al.
Application No.: 10/405,680
Attorney Docket No.: SP03-043

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

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed March 13, 2006.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed July 7, 2005, which set a shortened statutory period of reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application was abandoned as of midnight on October 7, 2005.

On March 13, 2006, applicants 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 a Request For Continued Examination (RCE) accompanied by the necessary fee and submission (the "Amendment" included with the RCE satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of July 7, 2005 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1756.

Telephone inquiries concerning this decision should be directed to the undersigned.

Cynthia M. Kratz
Attorney Advisor
(571) 272-3286

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of:	:	
Rezania et al.	:	
Application No. 10/405,693	:	DECISION ON
Filed: April 2, 2003	:	PETITION
Attorney Docket Number: LFS5014	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed April 24, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed October 4, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned November 5, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has filed a Response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1651 for processing of the Response.

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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ATTN: PATENT DOCKETING ROOM 2A-207
BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Weinman, Joseph Bernard Jr.	:	
Application No. 10/405,710	:	ON PETITION
Filed: April 1, 2003	:	
Attorney Docket No. 2002-0350 (40147/12501)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 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 an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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 solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

This matter is being referred to Technology Center AU 2188 for 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

cc: FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

Mail Date: 04/20/2010

Applicant	: Salomon Amar	: DECISION ON REQUEST FOR
Patent Number	: 7626007	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/405,738	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **503** 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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MAR 29 2004

In re Application of
David G. Llewellyn *et al*
Application No. 10/405,744
Filed: April 2, 2003
Attorney Docket No. MIZ53.CIP
(049545.111228)

DECISION ON PETITION

This is a decision on the petition to make special filed on October 24, 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 3711 who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Troutman Sanders LLP
Bank of America Plaza
Suite 5200
600 Peachtree Street, NE
Atlanta, GA 30308-2216

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Paper No.

Robert C. Kowert
Meyertons, Hood, Kivlin,
Kowert & Goetzel, P.C.
P.O. Box 398
Austin TX 78767

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MAY 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Gopinath et al.	:	
Application No. 10/405,760	:	DECISION ON
Filed: April 2, 2003	:	PETITION
Attorney Docket No. 5681-45500	:	

This is a decision on the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT filed March 2, 2007.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed April 25, 2006. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR § 1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective July 26, 2006. A courtesy Notice of Abandonment was mailed on February 22, 2007.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn.

A review of the application file reveals no irregularities in the mailing of the Office action mailed April 25, 2006. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to

overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, 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.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed February 22, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2166 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed April 25, 2006 and for re-starting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-30-06

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/405765** Patent No.: **6973706**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The requested Changes/ Corrections were not described in the specification as originally filed and appear to be new matter.

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date Mailed : September 7, 2007.

Patent No. : 6,973,706
Inventor : Say et al.
Patent Issued : December 13, 2005
Title : METHOD OF MAKING A TRANSCUTANEOUS ELECTROCHEMCIAL SENSOR

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to applicants request for correction involving items as filed March 13, 2006; the requested changes/corrections were not described in the specification as originally filed and appear to be new matter. The Letters Patent with regard to this matter is therefore in accordance with the records in the Patent and Trademark Office. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

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

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Merchant & Gould P.C.
ATTN: Mara E. Deboe
P.O. Box 2903
Mineapolis, MN 55402-0903

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : March 18, 2008

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction on Patent No.: 6,973,706 B2

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

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

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

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

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

Note your decision on the appropriated box.

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

Comments:

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

3729

SPE: 3/18/08 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD
DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY
ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas L. HARRIMAN et al.	:	
Application No. 10/405,774	:	ON PETITION
Filed: April 01, 2003	:	
Attorney Docket No. 200309524-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 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 February 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 23, 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 an amendment; (2) a petition fee of $1620 charged to deposit account 08-2025; and (4) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 22, 2007 is accepted as having been unintentionally delayed.

As discussed in MPEP 706.07(h), An applicant cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)). Since the Office action of February 22, 2007 was not final and prosecution was not closed, the Request for Continued Examination filed with the instant petition is not proper.

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 Ella Colbert at (571) 272-6741 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2837 for appropriate action on the concurrently filed amendment.

for David Bucci
Petitions Examiner
Office of Petitions

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David E. Huang, Esq.
Chapin & Huang LLC
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

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MAY 2 7 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John G. Waclawsky, et al. :
Application No. 09/405,777 :
Filed: September 27, 1999 :
Attorney Docket No. CIS99-1717 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Allowability was mailed to applicant on August 24, 2004, which set a three (3) month statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on November 25, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, corrected formal drawings. The official draftsperson has reviewed the drawings and determined they are acceptable.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins

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

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CENTRAL COAST PATENT AGENCY
P O BOX 187
AROMAS, CA 95004

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OFFICE OF PETITIONS

In re Application of	:
George Hsu et al	: DECISION ON PETITION TO
Application No. 10/405,788	: WITHDRAW FROM RECORD
Filed: April 1, 2003	:
Attorney Docket No. P433	:

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2006.

The request is **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). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 C.F.R. § 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 C.F.R. § 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 C.F.R. § 10.40(c). The reason set forth in the request, *i.e.*, "[c]lient has other representation], does not meet any the conditions set forth in 37 C.F.R. § 10.40. If the reason for the requested withdrawal is because the "practitioner's client knowingly and freely assents to termination of the employment," then such statement should be provided in any subsequent request to withdraw as attorney in this application. *See* 37 C.F.R. § 10.40(c)(5).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy of this decision is being mailed to

the address noted on the request to withdraw as attorney. If the firm of Fernandez and Associates, LLP is desirous of representing applicant and receiving future correspondence in this application, then the appropriate power of attorney documentation must be submitted. Additionally, a courtesy copy of this decision is being mailed to the first-named applicant, to whom all future correspondence will be mailed if the withdrawal of attorney is ultimately granted and no appropriate power of attorney document is received.

In response to the final Office action of November 18, 2005, petitioner herein has filed a Request for Continued Examination, an amendment, and request for a one month extension of time. Appropriate action on the reply will be taken up by the Technology Center in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Fernandez & Associates, LLP
1047 El Camino Real, Suite 201
Menlo Park, CA 94025

George Hsu
1444 Los Alamos Road
Santa Rosa, CA 95409

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
PO BOX 4000
PRINCETON, NJ 08543-4000

In re application of Ning Lee et al :	
Serial No. : 10/405793	: DECISION ON PETITION
Filed : 03/28/03	:
Attorney Docket No.: D0171A	:

This is in response to applicants' petition, filed May 15, 2008 under 37 CFR 1.84(a), to accept color photographs.

Applicant has fulfilled all the requirements of 37 CFR 1.84(a). The statement required by 37 CFR 1.84(a)(2)(iii) is presently found at page 20, line 7, rather than page 21 as referenced in the peptition.

Applicant's petition is GRANTED.

/Jeffrey Stucker/
Supervisory Patent Examiner
Art Unit 1649

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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Libra	:	DECISION ON PETITION
Application No. 10/405,803	:	
Filed: March 6, 2003	:	
Atty. Dkt. No.: 034504-002	:	

The above-identified application has been forwarded to the Office of Petitions for consideration of the "PETITION," filed June 3, 2004. This petition is being treated under 37 CFR 1.10 to accord the above-identified application a filing date of March 6, 2003.

Petitioners allege that the instant application was deposited in Express Mail service March 6, 2003, but that the application was accorded a filing date of March 7, 2003.

Review of the official application file indicates that the application has been accorded a filing date of March 6, 2003.

Accordingly, the instant petition is hereby **DISMISSED AS MOOT**.

No fee is due in connection with this petition.

This application is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/405,808	03/31/2003	1652	905	200125.410C1	3	32	8

CONFIRMATION NO. 7948

CORRECTED FILING RECEIPT

OC000000011594866

00500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

Date Mailed: 12/31/2003

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)

Ralf M. Luche, Seattle, WA;
Bo Wei, Kirkland, WA;

Assignment For Published Patent Application

Ceptyr, Inc., Bothell, WA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/544,517 04/06/2000 ABN
which claims benefit of 60/128,204 04/07/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/28/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

DSP-4 dual-specificity phosphatase

Preliminary Class

435

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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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK, NY 10038

COPY MAILED
MAR 15 2010

In re Patent No. 7,061,065	:	
Issue Date: June 13, 2006	:	
Application No. 10/405,811	:	NOTICE
Filed: March 31, 2003	:	
Attorney Docket No. 13682 B	:	

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 Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: BENJAMIN J. HAUPTMAN
1700 DIAGONAL ROAD,
SUITE 310
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

AMS RSEARCH CORPORATION
10700 BREN ROAD WEST
MINNETONKA MN 55343

In re Application of	:	
Charles F. Manker et al	:	
Application No. 10/405,814	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 5217-08-1-1-1-1	:	

This is a decision on the petition, filed February 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 October 14, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3739 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

[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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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

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OFFICE OF PETITIONS

In re Application of :
Bertagnoli, et al. :
Application No.: 10/405,816 : ON PETITION
Filed: April 2, 2003 :
Attorney Docket No.: MSDI-497/PC739.00 :

A petition under 37 CFR 1.183 for suspension or waiver of requirement of an inventor to sign a supplemental declaration was filed on June 22, 2007 (certificate of mailing date June 19, 2007). Before the petition was addressed, on September 21, 2007, applicants filed a supplemental declaration in compliance with 37 CFR 1.63 and 1.67, executed by the previously non-signing joint inventor, Rudolf Bertagnoli.

In view of the above, the petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **dismissed as moot**.

The $400.00 petition fee submitted with the initial petition will be refunded to petitioners' credit card shortly.

After the mailing of this decision, the application will be returned to Publications Division for processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

OIPE
JUN 22 2007
IAP88

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:	)	Before the Examiner:
Rudolph Bertagnoli, et al.	)	David H. Willse
	)	
Application Serial No. 10/405,816	)	Group Art Unit: 3738
	)	
Filed: April 2, 2003	)	Ref. No. MSDI-497/PC739.00
	)	
METHODS AND INSTRUMENTATION FOR POSITIONING IMPLANTS IN SPINAL DISC SPACE IN AN ANTERIOR LATERAL APPROACH	)	June 19, 2007

PETITION UNDER 37 C.F.R. 1.183
for Suspension or Waiver of Requirement of an Inventor to Sign a Supplemental Declaration

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

Sir:

This petition is hereby made in response to the Notice of Allowance mailed March 19, 2007, requiring a new oath or declaration to be submitted in compliance with 37 CFR §1.67(a) identifying the present application by application number and filing date

```
Adjustment date: 11/13/2007  AKELLEY
06/22/2007 NNGUYEN2 00000024 10405816
03 FC:1462                    -400.00 OP

Refund Ref:
11/13/2007          0030046936
----------------------------------------

Credit Card Refund Total:      $400.00

Am Exp..: XXXXXXXXXXX1021  06/22/2007 NNGUYEN2 00000024 10405816
                           03 FC:1462                    400.00 OP
```

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

June 19, 2007
Date of Deposit

Douglas A. Collier
Name of Registered Representative

Douglas A. Collier
Signature

June 19, 2007
Date of Signature

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/07/07

2 Serial/Patent # 10/405,816

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition		06/22/07	$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY: credit card

	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition withdrawn before treated on merits.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Shirene Willis Brantley TITLE: Petitions Attorney

SIGNATURE: Shirene Willis Brantley PHONE: 571 272-3230

OFFICE: Office of Petitions

****

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APPROVED: OK DATE: 11/13/07

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of
Patricio Abarzua et al.
Application No. 10/405,822
Filed: March 31, 2003
Attorney Docket No. 13172.0023U1

DECISION ON PETITION
UNDER § 1.183

This is a decision in response to the petition filed November 25, 2009, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **DISMISSED**.

The above-identified application was filed on March 31, 2003, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration was executed by all the joint inventors except Patricio Abarzua. Applicants have filed the instant petition to have the 37 CFR § 1.131 declaration accepted as signed by all inventors on their own behalf and on behalf of non-signing inventor Abarzua.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR § 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that joint inventor Abarzua sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Abarzua's signature on the 37 CFR § 1.131 declaration. The declaration presented is signed by the remaining joint inventors however, applicants have not shown that a bona fide effort was made to present the 37 CFR § 1.131 declaration and supporting documentation to Mr. Abarzua.

Petitioners have argued that Patricio Abarzua refuses to sign the Declaration, not based on a disagreement regarding the content of the 37 C.F.R. §1.131 Declaration, but based on his desire to be compensated by QIAGEN GmbH, the assignee, for the time needed to review and execute the Declaration. While the petition avers that the non-signing inventor has expressly refused to sign the declaration, the petition does not include any evidence of the presentment of the declaration to Mr. Abarzua or that he has had an opportunity to review the materials for which he is refusing on that he has refused via email. In view of the evidence presented, it is concluded that petitioner has not demonstrated that this is an extraordinary situation, warranting waiver of the rules.[1]

Before the Declaration under 37 CFR 1.131 can be entered, petitioner must provide details, of the presentment of the declaration to Mr. Abarzua.

Petitioner is advised that the fee for a petition under 37 CFR 1.183 is set at $400 not $130 as indicated in the petition. As such, petitioner's deposit account no. 14-0629 has been charged in the amount of $270 to make up the difference between that which is due and that which has been paid.

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

---

[1] MPEP 409.03(d).

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ATLANTA GA 30309-3915

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FEB 16 2010

OFFICE OF PETITIONS

In re Application of
Patricio Abarzua et al.
Application No. 10/405,822
Filed: March 31, 2003
Attorney Docket No. 13172.0023U1

DECISION ON PETITION
UNDER § 1.183

This is a decision in response to the renewed petition filed January 22, 2010, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on March 31, 2003, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration was executed by all the joint inventors except Patricio Abarzua. Applicants have filed a petition on November 25, 2009 to have the 37 CFR § 1.131 declaration accepted as signed by all inventors on their own behalf and on behalf of non-signing inventor Abarzua.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR § 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that joint inventor Abarzua sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant renewed petition, applicants have set forth the steps taken to obtain joint inventor Abarzua's signature on the37 CFR § 1.131 declaration. Applicants have shown that a bona fide effort was made to present the 37 CFR § 1.131 declaration and supporting documentation to joint inventor Abarzua. The declaration presented is signed by all of the remaining joint inventors. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR § 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the declaration.

The petition fee in the amount of $400 has been appropriately charged and applied.

This matter is being referred to Technology Center 1637 for consideration on the merits of the reply and the 37 CFR § 1.131 declaration, filed November 25, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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NEW YORK, NY 10017

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of
Beat Ludi, et al.
Application No. 10/405,825
Filed: April 2, 2003
Attorney Docket No. ME-51

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 24, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before May 10, 2005. A Notice of Abandonment was mailed on August 26, 2005. Receipt is acknowledged of the requisite issue/publication fee on October 24, 2005.

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

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CHARLES H. JEW, ESQ.
CASCIO, SCHOMOYER & ZERVAS
423 BROADWAY AVE, STE 314
MILLBRAE CA 94030-1905

In re Application of	:	
Renzi, et al.	:	
Application No. 10/405,842	:	DECISION
Filing Date: 2 April, 2003	:	
Attorney Docket No.: SAND-01092US0		

This is a decision on the renewed petition filed on 2 March, 2007, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, alternatively seeking to revive under 37 C.F.R. §1.147(a) an application abandoned due to unavoidable delay.

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

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

BACKGROUND

The record reflects that:

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

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 17 May, 2006, with reply due absent extension of time on or 17 August, 2006;

- notably, the only rejection reflected in the 17 May, 2006, Office action was as to "a nonstatutory double-patenting rejection," and the Office action indicated that "a timely filed disclaimer in compliance with the petition considered under 37 C.F.R.§1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground" provided there was a demonstration of common ownership between the earlier application/patent and the instant application;

- on 22 July, 2006, Petitioner filed a three- (3-) page reply consisting of a transmittal sheet, a terminal disclaimer to "to obviate a double patenting rejection" and therein a statement of common ownership as to "Sandia Labs," and a fee transmittal sheet to satisfy the fee requirement for the disclaimer–however, it appears that there was no express "amendment" or request for entry;

- the instant application went abandoned after midnight 17 August, 2006;

- the Office mailed a Notice of Abandonment on 11 January, 2007;

- on 2 March, 2007, Petitioner filed *via* FAX the instant request to withdraw the holding of abandonment and alternatively the petition to revive (with fee authorization) alleging unavoidable delay, a copy of the reply averred to have been filed on 22 July, 2006, along with a copy of the "Auto-Reply Facsimile Transmission" received by Petitioner from the Office on 22 July, 2006, in response to FAX filing.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

(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]

[3] 35 U.S.C. §133 provides:

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

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

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

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

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

Further, the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the "showing" requirements described herein.

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

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

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

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

[9] The regulations at 37 C.F.R. §1.181 provide:
§ 1.181 Petition to the Director.
<>
(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
(e) Oral hearing will not be granted except when considered necessary by the Director.
(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

Allegations as to
Unavoidable Delay

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

The issue appears at this writing to be moot.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**; the 11 January, 2007, holding of abandonment is **vacated**; and the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**.

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES
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5/27/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/405,916 received on 5/6/03 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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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/4/09

Paper No.: —

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/405922 Patent No.: 7462746 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

MARK L. SHIBUYA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1641
Art Unit

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Petasis et al. :
Patent No. 6,946,542 :
Issued: September 20, 2005 :
For: AMINO AMIDES, PEPTIDES :
AND PEPTIDOMIMETICS : ON PETITION

This is a decision on the Petition for issuance of Duplicate Letters Patent Under 37 CFR 1.182 Due to Loss or Destruction, filed October 24, 2005. The delay in treating this petition is regretted.

The Petition is **granted**.

The Publishing Division is directed to issue a duplicate Letters Patent. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being referred to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being referred to the Files Repository.

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

Derek L. Woods
Attorney
Office of Petitions

CC: Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 571-273-9756)

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OFFICE OF PETITIONS

In re Application of	:
Sakawaki et al.	:
Application No. 10/405,932	: DECISION GRANTING PETITION
Filed: April 3, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Q74350	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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.

Petitioner requested a waiver of the $1330.00 petition fee. However, due to the petitioner improperly identifying the prior-filed application as 09/810,913 rather than 09/810,193 in the original specification, a petition under 37 CFR 1.78(a)(3) was necessitated and the petition fee is due.

The instant pending application was filed on April 30, 2004, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §

120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

This application is being forwarded to Technology Center Art Unit 1773 for appropriate action on the amendment filed April 30, 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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:
William J. Casey et al	:
Application No. 10/405,940	: DECISION GRANTING PETITION
Filed: April 2, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-5667US	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Eric B. Cole
Application No. 10/405,996
Filed: April 1, 2003
Attorney Docket No. 1033863-000011

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 30, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 30, 2006.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2160 extension of time fee submitted with the petition on December 4, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2137 for appropriate action by the Examiner in the normal course of business on the reply received December 4, 2006.

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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OFFICE OF PETITIONS

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

In re Application of	:	
Leddy, et al.	:	
Application No. 10/406,000	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. UIOWA-0047	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief after a Notice of Appeal was filed on May 22, 2007. The Office mailed a communication on January 10, 2008, pointing out that the application was abandoned

With the instant petition, petitioner submitted the required reply in the form of an RCE, paid the petition fee, and made a statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $555.00 extension of time fee submitted with the petition on June 30, 2009 was subsequent to the maximum period obtainable for reply (December 22, 2007), this fee has been refunded to petitioner's Deposit Accoun No. 19-0741.

The RCE fee of $405 has also been charged to the deposit account, as authorized.

The application is being forwarded to Group Art Unit 1797 for consideration of the RCE, filed June 30, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Leddy, et al.	:	
Application No. 10/406,000	:	ON APPLICATION FOR
Filed: April 3, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 092490-0184	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed December 28, 2009. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand, five hundred and seventy-five (1,575) days, not three hundred ninety-one (391) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 30, 2009.

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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ARKEMA, INC.
PATENT DEPARTMENT – 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

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OFFICE OF PETITIONS

In re Application of	:	
Fabien Debaud et al	:	
Application No. 10/406,008	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 58779.000030		

This is a decision on the petition, filed April 29, 2005 which is being treated as a petition, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

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

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

Irvin Dingle
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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Mohamad L. Hammour, et al.	:	
Application No. 10/406,010	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. 4095-3	:	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 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on April 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER K. TRZYNZ, ESQ.
195 NORTH HARBOR DRIVE
#5403
CHICAGO, IL 60601

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SMITH, GAMBRELL & RUSSELL
1850 M STREET, NW
SUITE 800
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Jospeh W. Depierre, et al.	:	
Application No. 10/406,011	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. 044044WN002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 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 the attorneys were not appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed June 12, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. SVEN JAN LENNART NASSBERGER
COMPOUNDSEARCH AB U.B. C/O LIGNUM AB
BOX 89, 282 22
TRINGE, SWEDEN

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. 3

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

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OFFICE OF PETITIONS

In re Application of	:	
Goobar-Larsson, et al.	:	DECISION REFUSING
Application No. 10/406,012	:	STATUS UNDER 37 CFR
Filed: April 1, 2003	:	1.47(a)
Atty. Dkt. No.: TRIPEP.037C1	:	

This decision is in response to the petition under 37 CFR 1.47(a), filed June 13, 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 April 1, 2003 without an executed oath or declaration. This decision precedes mailing of Notice to File Missing Parts. The required surcharge for late filing of oath or declaration has been charged to Deposit Account No. 11-1410.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks items (1) and (2).

As to item (1) set forth above, the petition fails to establish that non-signing inventor was ever presented with a copy of the instant application (specification, including claims, drawings, and oath or declaration) and thereafter refused to sign the oath or declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that *bona fide* effort has been made to present a copy of the application papers (**specification, including claims, drawings, and oath or declaration**) to each inventor. Petitioner has failed to establish that Laura Goobar-Larsson received the application papers and thereafter refused to

execute the declaration.

While the petition establishes that the inventor received application papers for related application 10/235,158, petitioner has failed to establish that the inventor received the application papers for the instant application and thereafter refused to execute the oath or declaration. While it is acknowledged that the instant application was filed as a continuation of U.S. Pat. App. No. 10/235,158, there is no indication that in accordance with 37 CFR 1.63(d)(3) applicant has been accorded Rule 47 status in said application. Hence, petitioner is required to demonstrate that the inventor received a copy of the instant application papers and thereafter refused to execute an oath or declaration.

Any renewed petition must be accompanied by evidence that the inventor or the inventor's legal representative received the application papers and thereafter failed to respond to requests to execute the declaration. Petitioner may wish to provide the Office with copies of letters sent to the inventor or the inventor's legal representative indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor or the inventor's legal representative receive the application papers and requests to execute the oath or declaration are refused or ignored, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. If Rule 47 status has been accorded in the parent application for the instant application for patent, petitioner should provide a copy of the decision according such status upon renewed petition along with an oath or declaration satisfying the requirements of 37 CFR 1.63[1].

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration submitted herewith is not acceptable as it fails to satisfy the requirements of 37 CFR 1.63(d)(1)(i).

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

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[1]Petitioner is advised that the declaration submitted herewith will not be accepted should petitioner establish that Rule 47 status has been accorded in the parent application for the declaration contains alterations that have not been initialed or dated in accordance with 37 CFR 1.53(c).

By facsimile: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) 2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No. 11

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

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OFFICE OF PETITIONS

In re Application of	:
Vahlne, et al.	: DECISION GRANTING
Application No. 10/406,012	: STATUS UNDER 37 CFR
Filed: April 1, 2003	: 1.47(a)
Docket No.: TRIPEP.037C1	:
For: MOLECULES THAT BLOCK	:
VIRAL INFECTIVITY AND METHODS	:
OF USE THEREOF	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 1, 2003.

The petition is **GRANTED**.

The petition is **GRANTED**.

Petitioner has shown that inventor Laura Goobar-Larsson has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.
Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE T. Callahan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/406,026

Paper No.: _____

DATE : 8/5/05

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6778626

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

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

Thank You For Your Assistance

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

SPE

2816
Art Unit

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JOHN C LAMBERTSEN
6900 WESTCLIFF DRIVE
SUITE 104
LAS VEGAS NV 89145-0195

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OFFICE OF PETITIONS

In re Application of	:	
Ornstein, Marvin A.	:	
Application No. 10/406,034	:	DECISION ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. ORNS.01P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1115.00 extension of time fee submitted with the petition on January 30, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

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

This matter is being referred to Technology Center 3711 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of
Joseph A. Zupanick et al
Application No. 10/406,037
Filed: April 2, 2003
Attorney Docket No. 067083.0227

ON PETITION

This is a decision on the petition, filed March 31, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3673 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 10

JENNIFER H. HAMMOND
10453 RAINTREE LANE
NORTHRIDGE, CA 91326

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OFFICE OF PETITIONS

In re Application of	:	
Clayton C. Williamson	:	
Application No. 10/406,067	:	NOTICE
Filed: April 2, 2003	:	
Attorney Docket No. HI98001C1 (98005C1)	:	

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 2643.

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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Ryuhei Akiyama	:	
Application No. 10/406,072	:	DECISION ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 45616/261646	:	

This is a decision on the petition under 37 CFR 3.81(b) [1], filed February 4, 2009, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Andrew T. Spence 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 on whose behalf he/she acts.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Dentsu Inc. and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee,

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

> must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Dentsu Inc. is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/22/2005

TO SPE OF : ART UNIT ~~2821~~ 2163 **Pg. 1**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/406086 6852942

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.

Note: See 2nd pg. for modified PTOL-1050

Thank You For Your Assistance

A Green

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

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

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

Comments:

The proposed changes do not affect the scope of the invention.

~~WILSON LEE~~
~~PRIMARY EXAMINER~~

WILSON LEE
PRIMARY EXAMINER

SPE

2163
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (05-03)
Approved for use through 1/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

Ken Roberts OK'd change in Cl. and Line to ref. as Orig. Req. of 6-17-05

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

P.2

PATENT NO. : 6,852,942

DATED: : February 8, 2005

INVENTOR(S) : Monkhorst et al.

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

IN THE SPECIFICATION:

Column ~~4~~ 8, line ~~3~~ 9, change --FIGS. 8 and 10-- to "FIGS. 2 and 4".

MAILING ADDRESS OF SENDER:

PATENT NO. 6,852,942

No. of additional copies

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614

⇒ 1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 USC 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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

Paper No. 4

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

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Zhijian Lu et al	:	
Application No. 10/406,101	:	DECISION GRANTING PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 1.10(c)
Attorney Docket No. TI-35471	:	

This is a decision on the petition filed April 29, 2003, requesting that the above-identified application be accorded a filing date of April 2, 2003, rather than the presently accorded date of April 3, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 2, 2003, pursuant to 37 CFR 1.10. In support, applicants have submitted a copy of Express Mail label No. EV 053670815 US showing a "date-in" of April 3, 2002, as well as a MPO Window Unit, Dallas, TX, USPS receipt stamp of April 2, 2003. The same Express Mail mailing receipt number appears on the Utility Patent Application Transmittal for the subject application.

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 April 2, 2003 at the Dallas, TX USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on April 2, 2003. Accordingly, the instant application is entitled to a filing date of April 2, 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 April 2, 2003; for mailing of a corrected Filing Receipt; and to await a reply to the Notice to File Corrected Application Papers mailed June 3, 2003 or, if filed, for association of the reply with the file. Petitioner is advised that failure to timely reply to the Notice of June 3, 2003 will result in the abandonment of the application.

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Victor R. Bloomquist
13718 NE 182 Ave.
Brush Prairie, WA 98606

MAILED

APR 1 4 2005

Director's Office
Group 3700

In re Application of	:	
BLOOMQUIST	:	
Serial No.10/406,102	:	Decision on
Filed April 4, 2003	:	Petition
For: Floating Crank Shaft	:	

An Office Action was mailed to applicant on May 5, 2004. No response was received to that Office Action. A Notice of Abandonment for the above-identified application was mailed November 6, 2004. Applicant faxed a letter that will be treated as a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on November 25, 2004. In the petition applicant states that he has never received a letter from the United States Patent and Trademark Office. Further, there is a statement that applicant does not wish to abandon this application.

In view of the above, the **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Victor Bloomquist
13718 NE 182 Ave,
Brush Prairie WA 98606

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Bloomquist :
Application No. 10/406,102 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. N/A :
For: FLOATING CRANK SHAFT

This is a decision on the petition under 37 CFR 1.137(b), filed on December 14, 2006 (facsimile transmitted on December 5, 2006) to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed November 16, 2005, which set an extendable three month period for reply. Applicant submitted an amendment after final on November 26, 2005. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the April 24, 2006 Advisory action. Accordingly, this application became abandoned on February 17, 2006. A Notice of Abandonment was mailed on July 6, 2006.

Applicant has submitted a RCE and required fee and a request to use the previously filed amendment as the submission in reply to the November 16, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 16, 2005 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 3747 for further examination.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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JAN 14 2004
PATENT & TRADEMARK OFFICE

Paper No. 6

Woodard, Emhardt, Naughton,
Moriarty and McNett LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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JAN 14 2004
OFFICE OF PETITIONS

In re Application of Daniel Barber and Don Black Application No. 10/406,121 Filed: April 3, 2003 Attorney Docket No. 7094-218 Title: DETECTION AND CONTROL OF PESTS	DECISION ACCORDING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the petition filed December 3, 2003, pursuant to 37 C.F.R. § 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April 3, 2003, with an unexecuted declaration. Accordingly, on July 3, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicant filed the instant petition (and fee); the late surcharge; and a declaration executed by inventor Black on behalf of himself and on behalf of non-signing joint inventor Barber. This response was made timely by an accompanying petition and fee for extension of time for response within the third month. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Daniel Barber refuses to join in the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

By declaration of facts of patent attorney L. Scott Paynter, and supporting documentary evidence, 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 includes payment of the petition fee and the last known address of inventor Barber.

The declaration filed December 3, 2003, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 14 2004
PATENT & TRADEMARK OFFICE

DANIEL T. BARBER
31090 BIG RIVER COURT
COARSEGOLD, CA 93614

COPY MAILED
JAN 14 2004
OFFICE OF PETITIONS

In re Application of
Daniel Barber and Don Black
Application No. 10/406,121
Filed: April 3, 2003
Attorney Docket No. 7094-218
Title: DETECTION AND CONTROL OF PESTS

LETTER

Dear Mr. Barber:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Woodard, Emhardt, Naughton,
Moriarty and McNett LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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Paper No. 9

DERGOSITS & NOAH, LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Hawkes et al.	:	
Application No. 10/406,138	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 745.02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 7, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 30, 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 August 31, 2003. A Notice of Abandonment was mailed on August 26, 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 832570
RICHARDSON TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Neil James Davies et al	:	
Application No. 10/406,143	:	DECISION ON PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. U4EA-0002	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 17, 2007 and resubmitted on December 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No.PCT/GB00/03781, filed October 3, 2000, as set forth in the accompanying amendment.

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 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2619 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/406,143	04/03/2003	2619	440	U4EA-0002	20	3

CONFIRMATION NO. 4924

CORRECTED FILING RECEIPT

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

OC000000027567655

Date Mailed: 01/07/2008

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Neil James Davies, Bristol, UNITED KINGDOM;
Judith Yvonne Holyer, Bristol, UNITED KINGDOM;
Laura Anne Lafave, Bristol, UNITED KINGDOM;
Peter William Thompson, Bristol, UNITED KINGDOM;
Christopher James Vowden, Bristol, UNITED KINGDOM;
Graham Willmott Redfield, Bristol, UNITED KINGDOM;

Assignment For Published Patent Application

U4EA Technologies Limited, London, UNITED KINGDOM

Power of Attorney:
James Justiss--48981

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB00/03781 10/03/2000

Foreign Applications
UNITED KINGDOM WO 02/30060 04/11/2002

If Required, Foreign Filing License Granted: 05/27/2003
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/406,143**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Data flow control

Preliminary Class

370

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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RICHARDFSON, TX 75083

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OFFICE OF PETITIONS

In re Application of	:	
Neil James Davies et al	:	
Application No. 10/406,144	:	DECISION ON PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. U4EA-0003	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 12, 2007 and resubmitted on December 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No.PCT/GB00/03809, filed October 3, 2000, as set forth in the accompanying amendment.

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 and 365(c) 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 the application is entitled to

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2619 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/406,144	04/03/2003	2619	440	U4EA-0003	20	3

CONFIRMATION NO. 4919

CORRECTED FILING RECEIPT

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

OC000000027428016

Date Mailed: 01/04/2008

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Neil James Davies, Bristol, UNITED KINGDOM;
Judith Yvonne Holyer, Bristol, UNITED KINGDOM;
Laura Anne Lafave, Bristol, UNITED KINGDOM;
Peter William Thompson, Bristol, UNITED KINGDOM;
Christopher James Vowden, Bristol, UNITED KINGDOM;
Graham Willmott, Bristol, UNITED KINGDOM;

Assignment For Published Patent Application

U4EA Technologies Limited, London, UNITED KINGDOM

Power of Attorney:

James Justiss--48981

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB00/03809 10/03/2000

Foreign Applications

WORLD INTELLECTUAL PROPERTY ORGANIZATION 02/30066 04/11/2002

If Required, Foreign Filing License Granted: 05/27/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/406,144**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Packet sequence control

Preliminary Class

370

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
www.uspto.gov

HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:
Neil James Davies et al	:
Application No. 10/406,145	: DECISION ON PETITION
Filed: April 3, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. U4EA-0007	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 16, 2007 and resubmitted on December 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/GB00/03786, filed October 3, 2000, as set forth in the accompanying amendment.

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 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2619 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/406,145	04/03/2003	2619	440	U4EA-0007	20	3

CONFIRMATION NO. 4914

CORRECTED FILING RECEIPT

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

OC000000027568012

Date Mailed: 01/07/2008

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Neil James Davies, Bristol, UNITED KINGDOM;
Judith Yvonne Holyer, Bristol, UNITED KINGDOM;
Laura Anne Lafave, Bristol, UNITED KINGDOM;
Christopher James Vowden, Bristol, UNITED KINGDOM;

Assignment For Published Patent Application

U4EA Technologies Limited, London, UNITED KINGDOM

Power of Attorney: The patent practitioners associated with Customer Number 27964

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB00/03786 10/03/2000

Foreign Applications

WORLD INTELLECTUAL PROPERTY ORGANIZATION 02/30063 04/11/2002

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 10/406,145**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Policing data based on data load profile

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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LICENSE FOR FOREIGN FILING UNDER

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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VINSON & ELKINS LLP
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of
Alan Jay Schroit et al
Application No. 10/406,158
Filed: April 2, 2003
Attorney Docket No.
AND541/4-001US/75000

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

This is a decision on the petition, filed July 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 25, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Fred S. Cook	: DECISION ON REQUEST FOR
Patent Number	: 7594027	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/406,171	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1916** 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 : 3/23/07

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction on Patent No.: 6929833

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:

[signature]
SPE

1756
Art Unit

06 FEB 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, D.C. 20044-4300

In re Application of :
KONIG et al. :
U.S. Application No. 10/406,231 : DECISION
PCT No.: PCT/EP01/11278 :
Int. Filing Date: 29 September 2001 :
Priority Date: 06 October 2000 :
Attorney Docket No.: 095309.51243US :
For: DEVICE FOR PROTECTING AGAINST ELECTROSTATIC CHARGING OF A BATTERY :

The above-identified application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371. The initial papers filed 04 April 2003 were processed as a filing under 35 U.S.C. 111(a). For the reasons discussed below, this application will be converted to the national stage filing of PCT/EP01/11278.

BACKGROUND

On 29 September 2001, applicants filed international application PCT/EP01/11278 which claimed a priority date of 06 October 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 April 2003.

On 04 April 2003, applicants filed the present application. The application papers filed therewith included a transmittal letter; a check in the amount of $936 to cover the basic filing fee of $900 and extra claims fee of $36; a preliminary amendment; an application data sheet; and an English translation of the international application. The transmittal letter did not refer to 35 U.S.C. 371 or "national stage." The application was processed as a filing under 35 U.S.C. 111(a).

On 11 June 2003, applicants filed a declaration and power of attorney.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

In the application data sheet filed 04 April 2003, the applicant clearly identifies in the "continuity information" section that "this application is a 371 of PCT/EP01/11278 filed October 6, 2000." This is a clear indication that the papers were filed under 35 U.S.C. 371. The transmittal letter did not contain any instructions in conflict therewith. The application papers filed 04 April 2003 should have been processed under 35 U.S.C. 371, not 35 U.S.C. 111.

Accordingly, the filing receipt issued on this application, which did not indicate filing under 35 U.S.C. 371, was in error and is hereby vacated.

CONCLUSION

For the reasons above, the application will be converted from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371.

This application has an international filing date of 29 September 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of 11 June 2003.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which identifies this application as a national stage application of PCT/EP01/11278.

Thereafter, the application will be forwarded to Art Unit 2836.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41st FL.
NEW YORK, NY 10036-2714

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Katsuhiko Onoue	:
Application No. 10/406,237	: DECISION GRANTING PETITION
Filed: April 4, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. X2007.0126/OUSO	:

This is a decision on the petition, filed October 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 13, 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 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Yasuji Hiramatsu et al :
Application No. 10/406,245 : DECISION GRANTING PETITION
Filed: April 4, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 250605US90DIV :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr9\406245.wpd

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

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ERIC ROBINSON
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21010 SOUTHBANK ST
POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS

In re Application of :
Kenji Kasahara et al :
Application No. 10/406,295 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. 0756-7128

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 February 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Frey	:	
Application No. 10/406,315	:	DECISION GRANTING
Filed: April 4, 2003	:	PETITION
Attorney Docket No. FREY3001CIP/beu	:	
For: DATA CARRIER		

This is a decision on the petition filed July 24, 2003 and resubmitted on June 17, 2004, to accord the above-identified application a filing date of April 4, 2003. The petition will be treated under 37 CFR 1.182.

On April 4, 2003, the application was deposited.

On July 10, 2003, the Office of Initial Patent Examination mailed a Notice stating, *inter alia*, that drawings were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the July 24, 2003 petition states that the drawings may have been inadvertently omitted. However, the original Transmittal sheet incorporated by reference the entire disclosure of the parent application, no. 09/622,930. The petition states the drawings in the parent and continuation are identical.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on April 4, 2003, albeit in the file of another application, i.e., application No. 09/622,930.[1] Therefore, on petition, the application may be accorded the requested filing date of April 4, 2003.

The examiner of record does not have authority to grant a filing date based on incorporation by reference when essential material for accordation of a filing date is missing. The authority lies with the Office of Petitions. The petition under 37 CFR 1.182 is **granted**. This application's filing date is April 4, 2003.

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

---

[1] While application No. 09/622,930 only contains Figures 1-5, it is a national stage of PCT application no. PCT/EP99/01636. Therefore, under 35 USC 363, since the PCT application had all 7 drawing figures, the 35 USC 371 application has the same contents.

After the mailing of this decision, the application will be forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt showing **April 4, 2003** as the filing date of the above-identified application. The examiner has already approved the drawings submitted on July 24, 2003 and there is no new matter issue. Therefore, after the mailing of a corrected filing receipt, the application will be forwarded to the Office of Initial Patent Publications Division to await receipt of the issue fee, publication fee, and complete Fee(s) Transmittal.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SAN JUAN, PR 00901

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OFFICE OF PETITIONS

In re Application of :
Suzanne E. Kuffler, et al. :
Application No. 10/406,330 :
Filed: April 4, 2003 :
Attorney Docket No. None :

ON PETITION

This is a decision on the petition, filed January 5, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is GRANTED.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed August 23, 2005. A Notice of Abandonment was mailed on May 19, 2006. In response, on January 5, 2007, the present petition was filed, as well as an Amendment and a Revocation and Power of Attorney.

The Revocation and Power Attorney filed January 5, 2007 is **not** acceptable, as the Power of Attorney is considered unsigned since it is signed by one of three joint inventors. However, in accordance with 37 CFR 1.34(a), the signature of Eugenio Torres appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Torres desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file is being forwarded to Technology Center AU 3734 for consideration of the amendment filed January 5, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EUGENIO TORRES
1060 ASHFORD AVE., STE. 1
SAN JUAN, PR 00907

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OFFICE OF PETITIONS

In re Patent No. 7,385,725	:
David Sawyer	:
Issue Date: June 10, 2008	: ON PETITIONS UNDER 37 CFR
Application No. 10/406,332	: 1.183 AND ON REQUEST FOR
Filed: April 2, 2003	: RECONSIDERATION OF
Attorney Dkt. No. 07844-573001(P528)	: PATENT TERM ADJUSTMENT
Title: Previewing An Image Rendered On Multiple Pages	:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Determination of Patent Term Adjustment - Post Grant, both filed on November 26, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On June 10, 2008, the above-identified application matured into U.S. Patent No. 7,385,725, with a revised patent term adjustment

of 1033 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on June 10, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 26, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by August 10, 2008, the date two months from the date this patent issued, June 10, 2008. Rather, on November 26, 2008, nearly two months after

the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an

Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and §1.323 or 35 U.S.C. 255 and §1.324 are not substitute *fora* to obtain to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. §1.705(d)," filed November 26, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand four hundred sixty-seven (1467) days.

On June 10, 2008, the above-identified application matured into U.S. Patent No. 7,385,725 with a revised patent term adjustment of 1033 days. The instant request for reconsideration was filed more than five months after the issuance of the patent on June 10, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/30/2010

Applicant	: Jeremy Stieglitz	: DECISION ON REQUEST FOR
Patent Number	: 7614078	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/406,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 2100
112 EAST PECAN STREET
SAN ANTONIO, TX 78205

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OFFICE OF PETITIONS

NOTICE

In re Application of :
Lingamfelter :
Application No. 10/406,346 :
Filed: April 3, 2003 :
Attorney Docket No. P-6515.01(CIP) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Application No. 10/406,359

Filed: 4/4/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on August 18, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(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.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

The requester, Mr. Michael Mord Lewis, is not of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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OFFICE OF PETITIONS

In re Application of	:	
Joohee Kim et al	:	
Application No. 10/406,367	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 65306-0080	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed August 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 27, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 18-0013 was charged a total of $1,750.00 -- $750.00 for the petition to revive an unintentionally abandoned application, $700.00 for the issue fee, and $300.00 for the publication fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of	:	
Arizmendi et al.	:	
Application No. 10/406,368	:	DECISION ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 2003-0016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 14, 2008. A Notice of Abandonment was mailed October 7, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/406,368	Applicant(s) ARIZMENDI ET AL.	
	Examiner ANGELA A. ARMSTRONG	Art Unit 2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *the proposed claim amendments to claim 29 raises new issues requiring further search and consideration*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Angela A Armstrong
Primary Examiner
Art Unit: 2626

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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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AT & T LEGAL DEPARTMENT – NDQ
ATTN: PATENT DOCKETING
ONE AT & T WAY, ROOM 2A-207
BEDMINSTER NJ 07921

MAILED

APR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Arizmendi et al.	:	
Application No. 10/406,368	:	DECISION ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 2003-0016	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed March 14, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 15, 2008. A Notice of Abandonment was mailed October 7, 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 (previously submitted on January 7, 2009); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 2626 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Shroot et al.	:	
Application No. 10/406412	:	
Filing or 371(c) Date: 04/03/2003	:	ON PETITION
Attorney Docket Number: DFBP:016US	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 2, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 21, 2007. A Notice of Abandonment was mailed January 15, 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 the petition includes (1) the reply; (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 1618 for processing of the Amendment/reply 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

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
10/406,423	04/02/2003	3764	375	1	12	17	2

CONFIRMATION NO. 5190

CORRECTED FILING RECEIPT

OC000000011148780

26630
LOYD W BONNEVILLE
1213 AMSTERDAM AVE
MADISON, WI 53716

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 t the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James Edward Nault, Madison, WI;
Robert Sylvester Hinds, Madison, WI;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/184,239 06/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/14/2003

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Exercise bar cord impingement assembly

Preliminary Class

482

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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BUCHANAN INGERSOLL & ROONEY, PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Richard Daniel Borovoy	: DECISION ON REQUEST FOR
Patent Number	: 7613684	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/406,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1349** 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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Biotechnology Law Group
c/o Portfolioip
P.O. Box 52050
Minneapolis, MN 55402

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Allan OSTROFF, et al.	:	
Application No. 10/406,454	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. CH/0100CT/UTL	:	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 20, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Daniel Chambers and the attorneys associated with customer number 35938 have been revoked by the assignee of the patent application on March 14, 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Crompton Seager and Tufte, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420

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Paper No. 4

HOWARD & HOWARD ATTORNEYS,
P.C.
THE PINEHURST OFFICE CENTER,
SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-
5151

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OFFICE OF PETITIONS

In re Application of :
Blair et al. :
Application No. 10/406,465 :
Filed: April 2, 2003 :
Attorney Docket No. :
65,230-004 :

This is a decision on the petition under 37 CFR § 1.10, filed July 7, 2003, requesting that the above-identified application be accorded a filing date of April 2, 2003, rather than the presently accorded filing date of April 4, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 2, 2003. Petitioner has filed the appropriate documentary and corroborating evidence from the USPS demonstrating that April 2, 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 April 2, 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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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No.

PATRICK M. DWYER PC
14419 GREENWOOD AVE N, BOX 322
SEATTLE WA 98133

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of Richard P. Scott et al. Application No. 10/406,473 Filed: April 2, 2003 Attorney Docket No.: SEAATT.P00 Title: IMPACT ABSORBING SAFETY MATTING SYSTEM WITH ELASTOMERIC SUB-SURFACE STRUCTURE	DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on January 26, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

A non-final Office action was mailed on July 22, 2008, which set a shortened statutory period for reply of three months. As such, the maximum extendable period for providing a response expired at midnight on January 22, 2008.

With this petition, Petitioner has asserted that on January 22, 2009, he attempted to submit a response to the above-referenced Office communication, but encountered difficulties effectuating the facsimile transmission, and said transmission was not effectuated until after midnight. As such, Petitioner is under the impression that this submission was accorded a filing date of January 23, 2009, and this application went abandoned for failure to submit a response in a timely manner.

A review of the record reveals that the submission was accorded a filing date of January 22, 2009, and this submission included

a three-month extension of time so as to make timely the response. Moreover, the papers that constitute the relevant submission contain a date stamp that reads:

RECEIVED
CENTRAL FAX CENTER
JAN 22 2009

Petitioner will note that the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

It follows that this petition is **DISMISSED AS MOOT.**

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the 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. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

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/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: PATRICK M. DWYER PC
1100 DEXTER AVENUE N. SUITE 100
SEATTLE WA 98109

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JJGJr: 11-03

Paper No: 4

ARMSTRONG WORLD INDUSTRIES, INC.
2500 COLUMBIA AVENUE
P.O. BOX 3001
LANCASTER PA 17604-3001

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DEC 02 2003
OFFICE OF PETITIONS

In re Application of:
Schultz, et al.
Filed: 3 April, 2003
Application No. 10/406,486
Docket No.: 0304

ON PETITION

This is a decision on the paper filed as a "Petition Under 37 C.F.R. §1.153(e)" filed on 30 June, 2003, seeking to have accorded to page 3 of the specification (description and claims) of the above-identified application a filing date of 3 April, 2003.

The petition is **GRANTED**.

The application was deposited on 3 April, 2003.

On 29 May, 2003, the Office mailed a Notice of Omitted Items in a Nonprovisional Application, and indicated therein that "Page 3 of the specification (description and claims)" appeared to have been omitted. Petitioner also was informed that he could accept the application as filed, or seek either to: (a) have accorded to the entire application the filing date on which the omitted item was supplied, or (b) have a determination that the omitted item was present on filing.

Thereafter, on 30 June, 2003, Petitioner Douglas E. Winters (Reg. No. 29,990) filed the instant petition, and

- therewith supplied:

  --a copy of the receipt card (see: MPEP §503) evidencing the deposit on 3 April, 2003, of the instant application containing: "Check ($2,154.00), Transmittal Letter, Fee Transmittal (2 pp.), Specification and Claims (44 pp.), Declaration and Power of Attorney (2 pp.), and Drawing (1 sheet)"; and

--a copy of a document purporting to be "page 3"; and

- Petitioner's statement.

A review of the application papers reveals that the application in fact was filed and received in the Office on 3 April, 2003, and that a comparison of the date-stamped (3 April, 2003) copy of the receipt card filed by Petitioner and the specification (description and claims) in the file evidence the file containing pages 1-2 and 4-44 of the specification (description and claims).

Petitioner contends that if the Notice indicating an omitted item was correct, there would be only 43 pages of specification acknowledged on the date-stamped receipt card, rather than the 44 page acknowledged as received by the Office.

Petitioner's contention is well taken, and it appears that 44 pages of specification (description and claims) were filed, and thereafter page 3 was misplaced in the Office.

Therefore, the petition is **granted** to accord a filing date of 3 April, 2003, to page 3, and the petition fee is refunded via Treasury check.

The application is being returned to OIPE for further processing with a filing date of 3 April, using the 43 Pages of Specification (description and claims); and 1 sheet of drawings, all deposited on 3 April, 2003; and the page 3 of the specification (description and claims) submitted with the instant petition on 30 June, 2003; and further with direction to OIPE to correct Office records to reflect that 44 pages of specification and 1 sheet of drawings were present on filing on 3 April, 2003; and forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of April, 2003, reflecting therein that 44 pages of specification (description and claims) and 1 sheet of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Application of	:	
Metzger	:	
Application No. 10/406,495	:	ON PETITION
Filed: April 4, 2003	:	
Attorney Docket No. 8932-720-999	:	

This is a decision on the petition, filed August 27, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's city/state is West Chester, Pennsylvania and that an incorrect assignee's city/state was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests correction of the Issue Fee Transmittal.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Office database assignment records do not appear to reflect the requested correction of assignment data (West Chester, Pennsylvania), reflecting instead Paoli, Pennsylvania. Thus, a

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004.

certificate of correction to reflect West Chester, Pennsylvania would not be appropriate if the assignment records do not establish the requested correction was submitted prior to payment of the issue fee.

In view of the above and after issuance of this application into a patent, petitioner may request reconsideration of the instant decision, but must also establish that the requested change is supported by USPTO assignment records.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROETZEL AND ANDRESS
222 SOUTH MAIN STREET
AKRON OH 44308

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JUN 08 2005

OFFICE OF PETITIONS

In re Application of :
Walker et al :
Application No.10/406,507 : ON PETITION
Filed: April 3, 2003 :
Attorney Docket Number: 109511-0002 :
Title of Invention: ARROW SUPPORT DEVICE :
FOR ARCHERY BOW :

This is a decision on the petition filed April 13, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed December 29, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 30, 2005. 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**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS, CA 95004

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of :
Petr Makagon, et al. :
Application No. 10/406,511 : ON PETITION
Filed: April 2, 2003 :
Attorney Docket No.: P5179 :

This is a decision on the petition, filed June 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 May 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2141 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

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APR 09 2007

OFFICE OF PETITIONS

In re Application of :
Makagon et al. :
Application No. 10/406511 : DECISION ON PETITION
Filed: 04/02/2003 :
Attorney Docket No. P5179 :

This is a decision on the petition filed on 20 October, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 23 September, 2006, for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on 22 June, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 28 November, 2006.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

As the issue fee was previously paid, the petition will be construed as a request to apply the previously paid amount towards the new Notice of Allowance.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,482,082 :
Issue Date: January 27, 2009 :
Application No. 10/406,515 : ON PETITION
Filed: April 3, 2003 :
Attorney Docket No. 11727-5(77243 :
SI/VE)

This is a decision on the petition filed April 6, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. 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.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS, MN 55402-0903

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Satoshi Kawasaki et al :
Application No. 10/406,542 : DECISION GRANTING PETITION
Filed: April 3, 2003 : UNDER 37 CFR 1.8(b)
Attorney Docket No. 13869.11US01 :

This is a decision on the communication filed April 5, 2005, which is being treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 4, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 4, 2004. A Notice of Abandonment was mailed on February 18, 2005.

Petitioner states that the issue and publication fees were in fact timely paid. However, the facsimile transmission cover sheet for this application inadvertently transmitted the Part B - Fee(s) Transmittal for another application. Petitioner has submitted copies of the previously transmitted correspondence in support of his assertion, along with the sending unit's report, which report shows that the cover sheet properly identifies this application by application number, filing date, inventor's name, etc., and a transmission date of January 4, 2005.

The Office has no record of the facsimile cover sheet transmitted on January 4, 2005 for this application. However, failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, as the authorization for payment of the issue and publication fees was timely received on January 4, 2005, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

As authorized, the $1,400 issue fee and the $300 publication fee will be charged to petitioner's Deposit Account No. 13-2725.

This matter is being referred to Publishing Division.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

COOLEY GODWARD LLP
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Five Palo Alto Square
3000 El Camino Real
Palo Alto CA 94306-2155

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of Javier Saenz et al. Application No. 10/406,561 Filed: April 3, 2003 Attorney Docket Number: VCAT-001/02US Title: SYSTEM AND METHOD FOR CUSTOMER CONTACT MANAGEMENT	:	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed October 6, 2005, to withdraw the holding of abandonment.

The office regrets the period of delay in issuing this decision.

Background

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 13, 2004, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 C.F.R 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 14, 2005. A Notice of abandonment was mailed on September 21, 2005.

With the present petition pursuant to 37 C.F.R. §1.181(a), Petitioner has alleged that a response was timely submitted. A discussion follows.

The Relevant Law, Regulations, and Portion of the MPEP

35 U.S.C. 133: Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

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. § 1.142 Requirement for restriction.

(a) If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division). Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action.

(b) Claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for restriction is withdrawn or overruled.

[Para (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 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 §502.03(V): Interviews.

Internet e-mail shall NOT be used to conduct an exchange of communications similar to those exchanged during telephone or personal interviews unless a written authorization has been given under Patent Internet Usage Policy Article 5 to use Internet e-mail. In such cases, a paper copy of the Internet e-mail contents MUST be made and placed in the patent application file, as required by the Federal Records Act, in the same manner as an Examiner Interview Summary Form is entered.

Analysis

With the present petition, Petitioner has asserted that a response to the restriction requirement was submitted via internet e-mail[1]. Although the electronic file does not contain a copy of this electronic communication, Petitioner has provided a copy of the same. Furthermore, Petitioner asserts that the Examiner orally confirmed to a third-party that this response was sufficient.

Petitioner failed to submit a written response to the restriction requirement of December 13, 2004. Petitioner claims to have submitted an electronic response via e-mail, however this submission cannot constitute an acceptable response, as it lies outside of the official channels of communication. The restriction requirement set a one-month period for response, and required a written response. None was received. The restriction requirement constitutes an Office action, and e-mail submissions are not an acceptable method of submitting a response to an Office action.

Furthermore, the Office cannot view this electronic communication as an acceptable method of exchanging information similar to a telephone or personal interview: the electronic file does not appear to contain a written authorization under Patent Internet Usage Policy Article 5 to use Internet e-mail, as required by MPEP §502.03(V).

Additionally, 35 U.S.C. §133 is a self-executing law, which indicates that upon the failure of the applicant to prosecute the application within six months after any action therein, the

1 It is noted that the notice of abandonment indicates that the election was made orally.

application shall be regarded as abandoned by the parties thereto. Petitioner received an advisory action, and did not continue the prosecution of this application via the submission of an election via an acceptable method of communication. As such, the application went abandoned by operation of law, and it would be improper for this Office to withdraw the abandonment.

Similarly, 37 C.F.R. §1.135 is a self-executing regulation which indicates that the failure to reply within the time period provided under 37 C.F.R. §§1.134 and § 1.136 will result in the abandonment of the application. Furthermore, Petitioner did not further prosecution of this application to save the same from abandonment, as an acceptable reply was not submitted in response to the restriction requirement. As such, the application went abandoned by operation of law, and it would be improper for this Office to withdraw the abandonment.

Finally, Petitioner has asserted that the Examiner indicated to one Rula Lopez that the election via an e-mail submission was acceptable. It is noted that Petitioner does not have firsthand knowledge of this indication. It is further noted that 37 C.F.R. §1.2 prohibits reliance on an oral assurance purportedly made by the Examiner.

CONCLUSION

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any renewed petition under 37 C.F.R. §1.181 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 request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181," and should only address the deficiencies noted in this decision.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

ALTERNATE VENUE

Petitioner may also wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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OCT 25 2006

OFFICE OF PETITIONS

COOLEY GODWARD LLP
ATT: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto CA 94306-2155

In re Application of Javier Saenz et al. Application No. 10/406,561 Filed: April 3, 2003 Attorney Docket Number: VCAT-001/02US Title: SYSTEM AND METHOD FOR CUSTOMER CONTACT MANAGEMENT	:	DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed on July 26, 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 file a proper response to the Restriction Requirement, mailed December 13, 2004, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 C.F.R 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 14, 2005. A Notice of abandonment was mailed on September 21, 2005.

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1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner filed a petition pursuant to 37 C.F.R. §1.181(a) on October 6, 2005, which was dismissed via the mailing of a decision on June 5, 2006.

With the present petition, Petitioner has submitted the petition fee, a response to the restriction requirement, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The application file will be forwarded to the Technology Center. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the restriction requirement which was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COOLEY GODWARD LLP
ATT: PATENT GOUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

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OFFICE OF PETITIONS

In re Application of,	:	
Javier Saenz, et al.	:	
Application No. 10/406,561	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. VCAT-001/02US	:	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 16, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the petitioner was not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID OLYNICK
BEYER, WEAVER & THOMAS, LLP
500 12TH STREET
SUITE 200
OAKLAND, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200 – 19th Street, NW
Washington, DC 20036-2402

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AUG 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Javier Saenz et al.	:	
Application No. 10/406,578	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. VCAT-001/01US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 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 Kevin J. Zimmer on behalf of all attorneys of record who are associated with customer No. 23419. All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

The request to withdraw also requested that customer numbers 22,903 and 58,249 be withdrawn from this application. In review of the file record it indicates that these customer numbers were never of record in this application.

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. As assignee has not properly intervened in

this application, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Javier Saenz
1001 Challenger Circle
Spring Valley, CA 91978

cc: David Olynick, Esq.
Beyer Weaver & Thomas LLP
500 12th Street, Suite 200
Oakland, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/406,578	04/03/2003	Javier Saenz	VCAT-001/01US

CONFIRMATION NO. 4908

OC000000025199239

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
Washington, DC 20036-2402

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/16/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Drabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
ERIC S. CHERRY – DOCKETING SUPERVISOR
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,204,402	:	
Issued: April 17, 2007	:	
Application No. 10/406,579	:	
Filed: April 4, 2003	:	
Attorney Docket No. 011988-0301831	:	

This is a decision on the petition under 37 CFR 1.182, filed July 27, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WADDEY & PATTERSON, PC
1600 DIVISION STREET
SUITE 500
NASHVILLE, TN 37203

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of
Nathan Yeakel, et al.
Application No. 10/406,620
Filed: April 3, 2003
Attorney Docket No. N9110

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Waddey & Patterson, PC has been revoked by the assignee of the patent application on May 20, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MATTHEW W. SIEGAL
STROOCK & STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Nathan Yeakel, et al.	:	
Application No. 10/406,620	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. 001701/0127	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 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 Matthew W. Siegal on behalf of all attorneys of record who are associated with customer No. 26610. All attorneys/agents associated with the Customer Number 26610 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.

The application became abandoned for failure to timely pay the issue fee and publication fee indicated in the Notice of Allowance and Fee(s) Due mailed July 24, 2008.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GIBSON GUITAR CORP
309 PLUS PARK BOULEVARD
NASHVILLE, TN 37217

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
10/406,620	04/03/2003	Nathan Yeakel	001701/0127

CONFIRMATION NO. 9301

POWER OF ATTORNEY NOTICE

26610
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

OC000000034726910

Date Mailed: 02/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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DIW Apr-10

GIBSON GUITAR CORP.
309 PLUS PARK BOULEVARD
NASHVILLE TN 37217

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of	:
Yeakel et al.	: DECISION ON PETITION
Application Number: 10/406620	:
Filing Date: 04/03/2003	:
For: LIVE PERFORMANCE AUDIO	:
MIXING SYSTEM WITH SIMPLIFIED	:
USER INTERFACE	:

This is a decision on the renewed petition filed on February 1, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 25, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on July 24, 2008, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on November 19, 2008.

---

[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 Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the issue and publication fees is acknowledged.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Change of Correspondence Address filed on February 1, 2010 cannot be accepted because it is not properly executed. Specifically, the Change of Correspondence Address indicates that it is being signed by a registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. The practitioner who signed the application, however, Andrea E. Bates, is not named in the application transmittal letter filed on April 3, 2003. Furthermore, a declaration pursuant to 37 CFR 1.63 was filed on September 11, 2003.

A change of correspondence address signed by a proper party should be filed if the correspondence address needs to be updated. 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 application will be forwarded to the Office of Data Management for processing into a patent.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

Cc: ANDREA E. BATES
1270 CAROLINE ST, SUITE D-120-393
ATLANTA GA 30307

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOORE & VAN ALLEN PLLC
P O BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of David P. Engvall et al Application No. 10/406,621 Filed: April 2, 2003 Attorney Docket No. 5658/877	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 27, 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 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]

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.

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Moore & Van Allen, PLLC
430 David Drive, Suite 500
Morrisville, NC 27560

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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MOORE & VAN ALLEN PLLC
P O BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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MAR 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
David P. Engvall et al	:	
Application No. 10/406,621	:	DECISION GRANTING PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5658/877	:	

This is a decision on the petition, filed March 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 August 24, 2005, 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]

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\406621.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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P.O. Box 1450
Alexandria, VA 22313-1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

COPY MAILED

AUG 1 5 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kravits, et al. :
Application No. 10/406,622 :
Filed: April 3, 2003 :
Attorney Docket No. 3883-022149 :

This is a decision on the "Petition for Change to Order of Inventors' Names" under 37 CFR 1.182 filed July 15, 2005.

The petition is **granted**.

The order of the names of the inventors has been changed to the following:

1. Stephen J. Kravits
2. Bruce D. Rusby
3. John K. Wood

The application file is being directed to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-30-06

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/406622** Patent No.: **6968893**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 3 APR 2008

HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

In re Application of	:
DAVIES et al.	:
Application No. : 10/406,623	: DECISION ON PETITION
Filed: April 3, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. U4EA-0004	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 12 September 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/GB00/03789, filed October 3, 2000, set forth in the amendment submitted concurrently with the renewed petition 31 December 2007.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition 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 application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 2616 for appropriate action on the amendment filed 31 December 2007, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Boris Milef
Legal 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
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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
10/406,623	04/03/2003	2616	440	U4EA-0004	20	3

CONFIRMATION NO. 9320

CORRECTED FILING RECEIPT

27964
HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

OC000000029173669

Date Mailed: 04/01/2008

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Neil James Davies, Bristol, UNITED KINGDOM;
Judith Yvonne Holyer, Bristol, UNITED KINGDOM;
Laura Anne Lafave, Bristol, UNITED KINGDOM;
Peter William Thompson, Bristol, UNITED KINGDOM;
Christopher James Vowden, Bristol, UNITED KINGDOM;
Graham Willmott, Bristol, UNITED KINGDOM;

Assignment For Published Patent Application

U4EA Technologies Limited, London, UNITED KINGDOM

Power of Attorney:

M Cheairs--20382	Richard Krobusek--44851
David Hitt--33182	Greg Parker--44995
Charles Gaines--36804	Mark Kelley--45857
Jimmy Heisz--38914	Ronald Corbett--47500
Glenn Boisbrun--39615	James Justiss--48981

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB00/03789 10/03/2000

Foreign Applications

If Required, Foreign Filing License Granted: 05/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/406,623**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Information flow control in a packet network based on variable conceptual packet lengths

Preliminary Class

370

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).

DATE: 7-24-07 APPLICATION NUMBER: 10/406640

DOC CODE: Ref Dec. DOC DATE: 7/25/07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Patent No. 6,991,591	:	
Issued: January 31, 2006	:	
Application No. 10/406,640	:	DECISION GRANTING PETITION
Filed: April 2, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2560.03US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2007.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
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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HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:
Ilario A. Coslovi et al	:
Application No. 10/406,642	: DECISION ON PETITION
Filed: April 1, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 115699-14-CON	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the application data sheet filed July 19, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on April 1, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an application data sheet as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Further, a reference to add the above-noted, prior-filed provisional application on page one following the first sentence of the specification has been included in an amendment filed on June 1, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to **Dart Industires 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. Application No. 09/651,144 was referenced in the first sentence of the specification upon filing, and the amendment submitted with the instant petition reference Application No. 09/651,544. Therefore, the incorporation by reference statement included in the amendment is not proper for Application No. 09/651,544. However, the Office will accept the priority claim as shown in the application data sheet filed July 19, 2004.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 3617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/651,544, and to await the filing of a proper amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/406,647	03/19/2003	3763	750	BioCure 241	2	14	1

CONFIRMATION NO. 7959

CORRECTED FILING RECEIPT

OC000000012979872

27029
BIOCURE, INC.
2975 GATEWAY DRIVE
SUITE 100
NORCROSS, GA 30071

Date Mailed: 06/17/2004

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)

Lucas Latini, Norcross, GA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/370,361 04/05/2002
and claims benefit of 60/365,946 03/19/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/21/2003

Projected Publication Date: 07/29/2004

Non-Publication Request: No

Early Publication Request: No

Title

Microcatheter having tip relief region

Preliminary Class

604

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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COMMISSIONER FOR PATENTS
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Paper No. 3

Grant A. Johnson
IBM Corporation, Dept. 917
3605 Highway 52 North
Rochester MN 55901-7829

COPY MAILED

NOV 13 2003

OFFICE OF PETITIONS

In re Application of
Birkestrand, et al.
Application No. 10/406,652
Filed: April 3, 2003
Attorney Docket No. ROC920030071US1
FOR: METHOD TO PROVIDE
ON-DEMAND RESOURCE ACCESS

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed June 16, 2003 (certificate of mailing date June 13, 2003), requesting that the above-identified application be accorded a filing date of April 3, 2003, instead of the presently accorded date of April 4, 2003.

Petitioners allege that the application was deposited in "Express Mail" service with the U. S. Postal Service (USPS), on April 3, 2003 and request that the application be accorded a filing date of April 3, 2003. In support, petitioners provided a copy of Express Mail label ET747049297US with an illegible date-in, a copy of a sales receipt dated April 3, 2003 listing Express Mail package/label ET747049297US as being purchased on that date, and a copy of the original Patent Application Transmittal that lists Express Mail label no. ET747049297US thereon. An independent review of the USPTO's USPS Express Mail Information database reveals that a package associated with ET747049297US was accepted by the USPS on April 3, 2003.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 3, 2003.

The petition is granted.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **April 3, 2003**.

Telephone inquiries concerning this matter should be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Neal Richard Marion	: DECISION ON REQUEST FOR
Patent Number	: 7596758	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/406,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1815** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 05/17/2010

Applicant : Neal Richard Marion
Patent Number : 7596758
Issue Date : 09/29/2009
Application No : 10/406,653
Filed : 04/03/2003

: 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 **1847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DARCELL WALKER
SUITE 250
9301 SOUTHWEST FREEWAY
HOUSTON TX 77074

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Michael Pierre Carlson et al.
Application No. 10/406,664
Filed: April 3, 2003
Attorney Docket No.: AUS920030151US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on June 27, 2007 for failure to timely file a reply to the final Office action mailed March 26, 2007, which set a three (3) month shortened statutory period for reply. A response filed June 25, 2007 did not place the application in condition for Allowance. An Advisory Action was mailed July 6, 2007 and the instant petition and this decision precede the Notice of Abandonment mailed October 16, 2007.

The Notice of Appeal filed October 15, 2007 and Appeal Brief filed December 17, 2007 have been entered and made of record

This matter is being referred to Technology Center 2134 for processing of the Notice of Appeal and for review of the Appeal Brief filed December 17, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/30/08

TO SPE OF : ART UNIT 2826 Purvis Sue

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/406668 Patent No.: 6878966

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.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

Sue Purvis — SPE

2826 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCULLY SCOTT MURPHY & PRESSER PC
400 GARDEN CITY PLAZA, SUITE 300
GARDEN CITY, NY 11530

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of	:
Eriko Fujimaki et al	:
Application No. 10/406,689	: DECISION GRANTING PETITION
Filed: April 3, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16418	:

This is a decision on the petition, filed November 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 4

MARSH FISCHMANN & BREYFOGLE LLP
SUITE 411
3151 SOUTH VAUGHN WAY
AURORA, CO 80014

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SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of
Wallash et al.
Application No.10/406,697
Filed: April 3, 2003
Attorney Docket No. 3123-462
Title of Invention: TWO-STEP ELECTRICAL CONNECTOR & METHOD USING HIGH RESISTANCE PATH FOR ELECTROSTATIC DISCHARGE

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on August 4, 2003, to correct a typographical error on the filing receipt.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** final agency action within the meaning of 5 U.S.C. §704.

Petitioner contends the above-identified application is entitled to claim priority to U.S. Provisional Patent Application 60/379,556 which was filed on April 5, 2002. As such petitioner has requested a corrected filing receipt which reflects a claim of priority to provisional application 60/379, 556 with a filing date of April 5, 2002.

A review of Office records indicates Provisional Patent Application 60/379,556 was filed on May 9, 2002. Thus the filing receipt which indicates provisional application 60/379,556 was filed on May 9, 2002 and not April 5, 2002 is correct and not a typographical error.

Accordingly, a corrected filing receipt and refund of the $130.00 petition fee will not be provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petition Attorney Charlema Grant at 703.306.0251.

Beverly Flanagan
Supervisory Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

MARSH FISCHMANN & BREYFOGLE
SUITE 411
3151 SOUTH VAUGHN WAY
AURORA CO 80014

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of
Albert J. Wallash et al
Application No. 10/406,697
Filed: April 3, 2003
Attorney Docket No. 3123-462

: 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 December 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after 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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on April 3, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/370,556, which was filed on April 5, 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.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

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 de Seversky, *supra. Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement for Application No. 60/370,556, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 50-1419.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

---

[2]Note 37 CFR 1.121

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MARSH FISCHMANN & BREYFOGLE LLP
SUITE 411
3151 SOUTH VAUGHN WAY
AURORA, CO 80014

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of	:
Albert J. Wallash et al	:
Application No. 10/406,697	: DECISION ON PETITION
Filed: April 3, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3123-462	:

This is a decision on the paper filed October 29, 2004, which is being treated as a renewed petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/370,556, filed April 5, 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 April 3, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/370,556, which was filed on April 5, 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. 60/370,556 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-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §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 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 (571) 272-3208.

The examiner of Technology Center AU 2839 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §119(e) to prior-filed provisional Application No. 60/370,556.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Kazuya Matsuishi et al :
Application No. 10/406,754 :
Filed: April 3, 2003 :
Attorney Docket No. KOD107A.001AUS

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 3727.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

Kenneth C. Winterton, Esq.
Sherida Ross P.C.
Suite 1200
1560 Broadway
Denver, CO 80202-5141

In re Application of	:	
Edward M. Gostling	:	
Application No. 10/406,758	:	DECISION ON PETITION
Filed: April 2, 2003	:	TO WITHDRAW
Attorney Docket No. 3123-465	:	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 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Todd Blakely and the attorneys and/or agents associated with Sherida Ross P.C. has been revoked by the assignee of the patent application on November 15, 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: **Westman, Champlin & Kelly**
900 Second Avenue
Suite 1400
Minneapolis, MN 55402-3319

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/406,758	04/02/2003	Edward M. Gostling	3123-465

CONFIRMATION NO. 1454

OC000000022716831

OC000000022716831

Westman, Champlin & Kelly
900 Second Avenue
Suite 1400
Minneapolis, MN 55402-3319

Date Mailed: 03/01/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/406,758	04/02/2003	Edward M. Gostling	3123-465

CONFIRMATION NO. 1454

OC000000022716779

OC000000022716779

Kenneth C. Winterton, Esq.
Sherida Ross P.C.
Suite 1200
1560 Broadway
Denever, CO 80202-5141

Date Mailed: 03/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

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
10/406,758	04/02/2003	Edward M. Gostling	3123-465

CONFIRMATION NO. 1454

OC000000022716779

OC000000022716779

Kenneth C. Winterton, Esq.
Sherida Ross P.C.
Suite 1200
1560 Broadway
Denever, CO 80202-5141

Date Mailed: 03/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

Joseph P. Kincart
8153 Middle Fork Way
Jacksonville, FL 32256

In re Application of

Hirschorn, et al. :

Application No. 10/406,760

: DECISION ON PETITION

Filed: April 4, 2003

:

Attorney Docket No. Hirsch 40403

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 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 March 10, 2005, 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 June 11, 2005. A Notice of Abandonment was mailed on September 21, 2005.

The amendment filed April 7, 2006, is noted.

The "Change of Correspondence Address" filed April 7, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2800, GAU 2837 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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	:	
Kusinkski et al.	:	
Application No. 10/406,780	:	ON PETITION
Filed: 2 April, 2003	:	
Atty Docket 020030-000510US	:	

This is a decision on the paper entitled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 9 March, 2006 (certificate of mailing date 19 April, 2004 and postcard date 22 April, 2004).

This application became abandoned on 7 November, 2003, for failure to file a timely reply to the non-final Office action mailed on 6 August, 2003, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 17 March, 2004.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Office action mailed on 6 August, 2003. In support of the allegation that the final Office action was never received, petitioners have submitted a copy of a docket records for 7 through 12 November, 2003, and stated that the Office action was not received, and was not located in counsel's file or docket records.

A review of the record indicates no irregularity in the mailing of the final Office action mailed on 6 August, 2003, 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 non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office

communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. The final Office action set a three (3)-month shortened statutory period for reply. Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for three (3) months from the mail date of the final Office action (*i.e.*, from 6 August, 2003, up to and including, 6 November, 2003) as documentary proof of non-receipt of the Office action. With the present petition, however, the practitioner only submitted docket records for the period of 7 November through 12 November, 2003.

Further, petitioners have not provided a statement from the practitioner stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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103 East Neck Road
Huntington NY 11743

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OFFICE OF PETITIONS

In re Application of	:	
Fuehrer et al.	:	DECISION ON PETITION TO
Application Number: 10/406782	:	WITHDRAW HOLDING OF
Filing Date: 04/03/2003	:	ABANDONMENT
Attorney Docket Number: 2519	:	

This is a decision on the petition filed on March 3, 2004, to withdraw the holding of abandonment in the above-identified application.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a reply to the Notice to File Missing Parts of Nonprovisional Application mailed on May 30, 2003, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on February 11, 2004.

Petitioners assert that the Notice mailed on May 30, 2003, was never received. In support, petitioners' registered patent practitioner has provided a copy of both his hand docket entry and computer docket, showing that the Notice was not received.

In the absence of any irregularity in the mailing of the Notice to File Missing Parts of Nonprovisional Application (Notice), there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record

where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

It is noted that an additional Notice to File Missing Parts of Nonprovisional Application was mailed on July 6, 2004, and that a response to that Notice was timely filed on July 22, 2004. As such, the showing of record is that no further reply to the Notice mailed on May 30, 2003, is required, and that the Notice of May 30, 2003, does not need to be remailed.

The petition is **GRANTED.**

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAWSON & WEITZEN, LLP
88 BLACK FALCON AVE.
SUITE 345
BOSTON MA 02210

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Jack L. Strominger et al	:	
Application No. 10/406,783	:	DECISION GRANTING PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 24655-015-CIP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 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 27, 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 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Kim Crea et al	:	
Application No. 10/406,793	:	DECISION GRANTING STATUS
Filed: April 2, 2003	:	UNDER 37 CFR 1.47(A)
For: WEB-BASED PAYMENT SYSTEM WITH CONSUMER INTERFACE AND METHODS	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 5, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MARILYN BETHKE
5400 S. PARK TERRACE, #4-105
GREENWOOD VILLAGE, CO 80111

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Crea; Grimes; and Bethke
Application No. 10/406,793
Filed: April 2, 2003
For: WEB-BASED PAYMENT SYSTEM WITH CONSUMER INTERFACE AND METHODS

Dear Ms. Bethke:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC:
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JUN 0 5 2005

Technology Center 2100

In re Application of:
Ted E. DUNNING, et al.
Application No. 10/406,799
Filed: April 2, 2003
For: ASSOCIATING AND LINKING COMPACT DISC METADATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed December 21, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on May 23, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Greenberg Traurig, LLP as the attorney(s) of record of the instant application. The Power of Attorney of May 23, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Greenberg Traurig, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

cc: Greenberg Traurig, LLP
Met Life Building
200 Park Avenue
New York, NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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OFFICE OF PETITIONS

In re Patent No. 7,179,517 :

Issue Date: February 20, 2007 :

Application No. 10/406,809 : ON PETITION

Filed: April 3, 2003 :

Attorney Docket No. **1-24413**

This is a decision on the petition filed February 6, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner requests that the a certificate of correction be issued to reflect the name of the assignee of the above-cited patent as Gurit (UK) Limited. The Certificate of Correction filed with the petition states that the name of the assignee should be changed to "-(UK) Limited." This is thought to be a typographical error, however; the request is not grantable because the Certificate of Correction does not comport with the assignment records as maintained by USPTO.

The renewed request with an accurate Certificate of Correction may directed to the following:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 272-8300
Attn: Office of Petitions

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Townsend, Townsend & Crew, LLP
Two Embarcadero Center
Eight Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Scott, McClennon	:	
Application No. 10/406,820	:	DECISION ON PETITION
Filed: April 4, 2003	:	TO WITHDRAW
Attorney Docket No. 020510-004100US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Kris Kalidindi has been revoked by the assignee of the patent application on March 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Merek, Blackmon & Voorhees, LLC
673 S Washington Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Patent No. 6,904,845	:	
Issue Date: June 14, 2005	:	
Application No. 10/406,824	:	ON PETITION
Filed: April 2, 2003	:	
Attorney Docket No. 90767-4000	:	

This is a decision on the petition under 37 CFR 1.182, filed August 3, 2006, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lester W. Schiefelbein, Jr.
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

APR 20 2004

In re Application of:	:	
TRAVAGLINI, *et al.*	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Application No. 10/406,825	:	
Filed: April 03, 2003	:	
Attorney Docket No. 040092-027300US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **dismissed** as moot.

A review of the application file record reveals that a proper revocation of power of attorney was filed on April 05, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot and must be dismissed.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 500
IRVINE CA 92612-7108

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Shafiul A. Islam
430 Tupper Street
Hawkesbury, Ontario
CANADA K6A 3M5

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DEC 2 4 2003
OFFICE OF PETITIONS

In re Application of:
Karatzas et al.
Application No. 10/406,832
Filed: April 3, 2003
Title of Invention: METHOD AND APPARARUS FOR SPINNING SPIDER SILK PROTEIN

LETTER

Dear Dr. Islam:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

CC: PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

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DEC 2 4 2003

OFFICE OF PETITIONS

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

In re Application of:	
Karatzas et al.	
Application No. 10/406,832	
Filed: April 3, 2003	DECISION GRANTING
Title of Invention: METHOD AND	STATUS UNDER
APPARARUS FOR SPINNING SPIDER SILK	37 CFR 1.47
PROTEIN	

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 20, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Shafiul A. Islam, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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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FEB -7 2005

In re Application of	:	
Jay C. Peters	:	
Serial No. 10/406,839	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW AS ATTORNEY
For: SPORTS TRAINING APPARATUS	:	
AND METHODOLOGY	:	

By papers filed on September 22, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Jay C. Peters
NSM, Inc.
P.O. Box 8180
Tahoe City, CA 96145

E.R. Kazenske, Director
Technology Center 3700

John D. Long
Patent Counsel
2941 Sage Ridge Drive
Reno, NV 89509

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Masahito Yamane	: DECISION ON REQUEST FOR
Patent Number	: 7660352	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/406,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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United States Patent and Trademark Office
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Paper No. 7

MUSERLIAN AND LUCAS AND MERCANTI, LLP
475 PARK AVENUE SOUTH
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of	:	
Hoeppner, Dave	:	
Application No. 10/406,850	:	ON PETITION
Filed: April 4, 2003	:	
Attorney Docket No. 1029.1007	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 30, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before July 31, 2003. A Notice of Abandonment was mailed on February 11, 2004.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of June 13, 2003.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (703) 306-0482.

Francis Hicks

Francis Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PFIZER, INC.
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Rita M. Parikh :
Application No. 10/406,851 :
Filed: April 4, 2003 :
Attorney Docket No. PC25241A-03-DCL :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 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) 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 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 May 19, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 20, 2004.

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
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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRIS PLAINS, NJ 07950

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APR 23 2007

OFFICE OF PETITIONS

In re Application of :
Rita M. Parikh et al :
Application No. 10/406,851 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. PC25241-03-DCL :

This is a decision on the petition, filed March 27, 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.

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 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 May 19, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 20, 2004.

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
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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/406,851	Applicant(s) PARIKH ET AL.	
	Examiner Michael G. Hartley	Art Unit 1618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-19*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Michael G. Hartley
Supervisory Patent Examiner
Art Unit: 1618

Continuation of 11. does NOT place the application in condition for allowance because: Bombardelli teaches putting essential oil compositions in gelatin capsules (shells), while Pan does teach the amounts of the oils encompassed by the instant claims. It is noted that the claims recite oils in broad terminlogy. Pan teaches compositions having up to 12% menthol (see coluum 4 , lines 21-43). Menthol is within the scope of essential oil as claimed (see claim 10) and vegatable oils up to 0.2% which is within the claimed range of less than 20%. The examples show that combinations of such oils were taught by the disclosure..

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OFFICE OF PETITIONS

In re Application of :
Rita M. Parikh et al :
Application No. 10/406,851 :
Filed: April 4, 2003 :
Attorney Docket No. PC25241-03-DCL :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 1618 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JOHN R. VAN AMSTERDAM
WOLF GREENFIELD & SACKS P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Edward I. Budowsky et al :
Application No. 10/406,875 :
Filed: April 4, 2003 :
Attorney Docket No. V00191.70033.US

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 1639.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIW Oct-07

SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON WI 53711

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Steingass et al.	:	DECISION ON PETITION
Application Number: 10/406883	:	
Filing Date: 04/04/2003	:	
Attorney Docket Number:	:	
TASKFOR-23	:	

This is a decision on the petition filed on 21 August, 2007, styled under 37 CFR 1.183, which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

The application was held abandoned on 2 March, 2007, for failure to file a timely and proper reply to the final Office action mailed on 1 December, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 August, 2007.

Petitioners asserts, in essence, that the application should not have been held abandoned because the examiner indicated in the Interview Summary mailed on 19 March, 2007, that a new final Office action would be mailed. As petitioners are in effect asking for a withdrawal of the holding of abandonment, the petition is properly treated under 37 CFR 1.181.

Petitioners' argument has been considered, but is not persuasive.

---

[1] 37 CFR 1.181(f).

The showing of record is that the application became abandoned because applicant failed to timely file a response to the Office action mailed on 1 December, 2006.

In this regard, 35 U.S.C. 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

Furthermore, 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.

As such, whether or not the Examiner's Interview stated that new Office action would be mailed, the burden remained on petitioners to timely file a proper reply to the outstanding Office action.

Further, as petitioners concededly failed to timely file a reply, the application became abandoned as a matter of law.

Nevertheless, under the circumstances of this case, petitioners may wish to consider filing a petition under 37 CFR 1.137(a),[2] accompanied by a proper reply to the final Office action.

---

[2] A grantable petition under 37 CFR 1.137(a) <u>must</u> 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

Receipt of the $400.00 submitted with the present petition is acknowledged. As no fee is due for a petition under 37 CFR 1.181, the petition fee is unnecessary. Petitioners may wish to apply the fee paid towards the fee due for a petition under 37 CFR 1.137(a) or (b). Alternatively, petitioners may request a refund of the fee previously paid.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-07

SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON WI 53711

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DEC 05 2007
OFFICE OF PETITIONS

In re Application of :
Steinglass et al. : DECISION ON PETITION
Application Number: 10/406883 :
Filing Date: 04/04/2003 :
Attorney Docket Number: :
TASKFOR-23 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on November 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 2, 2007, for failure to file a timely reply to the final Office action mailed on

---

[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)).

December 1, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 15, 2007. On August 21, 2007, a petition to withdraw the holding of abandonment was filed. On October 5, 2007, the petition was dismissed.

The petition lacks the required reply. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on November, 2, 2007, does not place the case in *prima facie* condition for allowance.

Petitioner should file a proper reply with any renewed petition.

A copy of the examiner's Advisory Action is enclosed for petitioner's reference.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action Before the Filing of an Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-08

SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON WI 53711

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APR 22 2008

OFFICE OF PETITIONS

In re Application of :
Steinglass et al. : DECISION ON PETITION
Application Number: 10/406883 :
Filing Date: 04/04/2003 :
Attorney Docket Number: :
TASKFOR-23 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on February 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 2, 2007, for failure to file a timely reply to the final Office action mailed on December 1, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 15, 2007. On August 21, 2007, a petition to withdraw the holding of

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

abandonment was filed. On October 5, 2007, the petition was dismissed. On November 2, 2007, a petition to revive the application under 37 CFR 1.137(b) was filed. On December 5, 2007, the petition was dismissed.

The subject petition is accompanied by an amendment after final rejection. As the examiner has determined that the amendment would place the application in condition for allowance, the response may be favorably considered.

The duplicate petition fee paid with the present petition will be refunded to counsel.

The application is referred to Technology Center Art Unit 3679 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PROSKAUER ROSE, LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

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FEB 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Rainer Haberle	:	
Application No. 10/406,885	:	ON PETITION
Filed: April 4, 2003	:	
Attorney Docket No. 74577-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2005 and supplemented by facsimile transmission on January 23, 2006, to revive the above-identified application.

This 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 on May 26, 2005, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned after midnight on September 26, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, along with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3628.

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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P.O. Box 1450
Alexandria, VA 22313-1450
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CV THERAPEUTICS, INC.
3172 PORTER DRIVE
PALO ALTO CA 94304

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SEP 11 2008

In re Application of	:	
Belardinelli et al.	:	
Application No. 10/406894	:	
Filing or 371(c) Date: 04/03/2003	:	ON PETITION
Attorney Docket Number:	:	
02-165	:	

This is a decision on the Request for Reconsideration of Petition Under 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 26, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on January 27, 2008. A Notice of Abandonment was mailed June 23, 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.

It is noted than an extension of time fee of two (2) months was filed on March 24, 2008; however, no reply or other action requiring an extension of time was filed therewith. Applicant may request a refund of the extension of time fee by writing to the Office of Finance, refund section.

This application is being referred to Technology Center Art Unit 1614 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE, HONG, DEGERMAN, KANG & SCHMADEKA
801 S. FIGUEROA STREET
12TH FLOOR
LOS ANGELES CA 90017

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JAN 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/406,936	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 2080-3-167	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

ABELMAN FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK, NY 10017

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Yi Luo et al	:	
Application No. 10/406,942	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. 206,090	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 29, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 30, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 0 2 2006

OFFICE OF PETITIONS

Abelman, Frayne & Schwab
666 Third Avenue 10th Floor
New York NY 10017-5621

In re Application of	:	
Luo et al.	:	DECISION ON
Application No.: 10/406,942	:	
Filing Date: April 3, 2003	:	PETITION UNDER
Docket No.: 206,090	:	
For: Edge Preserving Smoothing Method	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 12, 2006.

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 February 24, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 24, 2006. A Notice of Abandonment was mailed on June 20, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee and Publication Fee (if required), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

O2MICRO INC
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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NOV 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Sterling DU et al.	:	
Application No. 10/406,949	:	DECISION ON PETITION
Filed: April 03, 2003	:	
Attorney Docket No. **O2-00.17.CIP.4**	:	

This is a decision on the petition, filed February 23, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed July 14, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 09, 2009.

Petitioner asserts that the Office action dated July 14, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2115 for re-mailing the Office action of July 14, 2008,. The period for reply will run from the mailing date of the Office action.

Thurman K. Page
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER NJ 07020

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of
Paul Hugh Findlay et al.
Application No. 10/406,952
Filed: April 4, 2003
Attorney Docket No.: C4215©

DECISION GRANTING
PETITION

This is a decision on the petition filed November 12, 2003, under 37 CFR 1.10© requesting that the above-identified application be accorded a filing date of April 4, 2003, rather than the presently accorded filing date of April 7, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 4, 2003. In support, on November 12, 2003, petitioner supplied a copy of a U.S. Postal Service Pickup Service Statement--Express Mail, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EU519960958US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the pickup date on the copy of the Pickup Service Statement provided is illegible, information provided from the USPS Internet Track & Confirm Database reveals that this Express Mail Label No. was accepted by the USPS on April 4, 2003.

In view of the above, the petition is granted. Since no petition fee is required, none will be charged.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to April 4, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

30 Image DAC

OIPE NOV 12 2003 JC10 PATENT & TRADEMARK OFFICE

PATENT

CASE # C4215(C)
UNUS #: 02-0320-UNI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	000201
Applicant:	Findlay et al.
Serial No.:	10/406,952
Filed:	April 4, 2003
For:	FABRIC TREATMENT COMPOSITIONS

EDGEWATER, NEW JERSEY 07020
November 7, 2003

PETITION TO SECURE FILING DATE AS OF MAILING DATE VIA EXPRESS MAIL
Under 37 CFR § 1.10(c)

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

PETITION

Applicants respectfully petition that the application described above be accorded the filing date on which the papers were sent "Express Mail Post Office to Addressee", mailing label no. EU 519 960 958 US on April 4, 2003.

Unilever Research, U.S., an affiliate of applicants' assignee, in conjunction with the United States Post Office in Edgewater, New Jersey established, on December 6, 1991, a corporate Express Mail Account no. X070246. A copy of Unilever's Express Mail procedure is enclosed which was followed in the instant case (Exhibit A).

Applicants have enclosed a copy of the Pick-up Service Statement (Exhibit B [Official Postal Service Form 5541), signed by Post Office employee Tonya Johnson on April 4, 2003 at 3:40 p.m. and by Susan Martin who also signed the certification of Express Mail and whose verified declaration is enclosed herewith (Exhibit C). This statement lists the number of the

document in question EU 519 960 958 US, which number is also listed on the transmittal sheet and return postcard used with the application, copies of which are also enclosed (Exhibit D). Applicants have also enclosed declarations from Michele Trapp, who prepared the transmittal letter (Exhibit E) and Mireya Villegas, who placed the application and transmittal letter in an envelope bearing Express Mail Label no. EU 519 960 958 US (Exhibit F).

Applicants' Administrative Manager, Linda Horvath telephoned the Edgewater Post Office and spoke with Frank Zeevalk who is the Post Master. Mr. Zeevalk investigated the missing Express Mail mailing label receipt but was not able to locate what happened to the label or the document to which it was affixed. Linda Horvath's verified declaration to this effect is enclosed (Exhibit G).

This Petition is being filed promptly after receipt of the Response to Request for Corrected Filing Receipt mailed on August 29, 2003 and received on September 2, 2003 which stated that a Petition to Accord a Filing Date should be submitted (as required by 37 CFR § 1.10(c)(1)). A copy of the pick-up service statement for Express Mail dated April 4, 2003 is being submitted as well as a copy of the "Track and Confirm" record of the USPS showing that notice was left on April 5, 2003 in Washington, D.C. for the subject application. (See Exhibit B). The fact that the Notice was left April 5, further supports the date of actual mailing of April 4, 2003. The pick-up service statement for Express Mail and the "Track and Confirm" record of the USPS are being submitted as "other official USPS notation" as provided for under 37 CFR § 1.10(c). Exhibit B are true copies of "other official notation by the USPS" which are relied upon to show the date of deposit as required by 37 CFR § 1.10(c)(3).

In view of the facts in this matter, applicants' attorney respectfully requests that the petition be granted, that the actual Express Mail mailing date of April 4, 2003 be entered in the case, and that the instant application be afforded the priority date of GB 0207850.9, whose filing date is April 4, 2002.

EXHIBITS

Submitted herewith are the following exhibits:

(a) a copy of the Unilever Express Mail procedure;

(b) a copy of the Pick-up Service receipt with the number EU 519 960 958 US, signed by Susan Martin, the Unilever Patent Department employee who deposited the package, and Tonya Johnson, the postal employee who received the package on April 4, 2003. Also attached is the USPS "Track and Confirm" shipment details for EU 519 960 958 US, showing notice left on April 5, 2003.

(c) verified declaration signed by Susan Martin verifying that she actually deposited the documents with the U.S. Postal Service on April 4, 2003.

(d) a copy of the transmittal letter which shows the executed Express Mail certificate and mailing label number EU 519 960 958 US, requesting the benefit under 35 USC § 119 for the filing of United Kingdom application no. GB 0207850.9 filed April 4, 2002; and return postcard.

(e) verified declaration signed by Michele Trapp verifying the preparation of Exhibit (d).

(f) verified declaration signed by Mireya Villegas verifying placing of Exhibit (d) in an envelope bearing Express Mail mailing label no. EU 519 960 958 US.

(g) verified declaration of Linda Horvath.

(h) copy of Request for Corrected Filing Receipt mailed June 9, 2003.

(i) response to Request for Corrected Filing Receipt mailed on July 15, 2003 indicating inability to claim priority of GB 0207850.9.

(j) renewed Request for Corrected Filing Receipt mailed July 24, 2003.

(k) response to Request for Corrected Filing receipt mailed August 29, 2003 indicating that a petition to correct the filing date should be submitted under 37 CFR § 1.10.

(l) copy of 37 CFR § 1.10(a) and (c).

PETITION FEE

The petition fee (37 CFR § 1.17(h)) is to be paid as follows:

C4215(C)

Charge $130.00 to Deposit Account No. 12-1155. Please charge any additional fees or credit overpayment to the aforementioned Deposit Account. Triplicate copies of this letter are enclosed.

Respectfully submitted,

Alan A. Bornstein
Reg. No. 40,919
Attorney for Applicant(s)

AAB/dca
(201) 840-2680

EXPRESS MAIL PROCEDURE – UPDATED 6/25/03

The following is a summary of the procedure to be used when mailing patent-related correspondence to the USPTO:

OIPE
NOV 1 2 2003
PATENT & TRADEMARK OFFICE

1. A member of the Patent Department will telephone either the Postmaster or the Supervisor of the Edgewater Post Office at (201) 945-0348 to request an Express Mail Pickup. Unilever Site Security is then notified at Extension 2606 and informed of the Post Office's pending arrival later in the day. Security is also informed of the name of the PD member to contact for pickup.

   The call to the Post Office should be placed no later than 12 Noon on those days requiring Express Mail pickup.

2. The Edgewater Post Office will pickup Express Mail envelopes on or about **3 P.M.** from the site Lobby.

3. A fee is charged per postal visit, currently $12.95. A paper stamp is issued from the site's Mail Room Department and appended to the Pickup Service Statement prior to arrival of the pickup. A monthly bill is submitted to Unilever relative to the mailing expenses incurred.

4. Upon arrival of the postal employee at the site, Security calls the PD member. The PD member brings the Express Mail envelopes to the site Lobby.

5. Prior to the 3 P.M. Express Mail pickup, each Express Mail envelope is listed on the "Pickup Service Statement for Express Mail, Priority Mail or Parcel Post" Form PS 5541. The Customer Name and each Express Mail Serial Number are listed on the form. Once all the numbers are listed, a line is drawn through the balance of the "unused" item numbers.

6. The PD member should sign their name under the "Customer Signature" prior to or at the time of the pickup.

7. The Express Mail envelopes should be sorted according to the "Item No." listed on the pickup form **before** presenting to the postal employee. The postal employee should verify the serial numbers listed on the form against the Express Mail labels/envelopes presented to him for pickup. After doing so, the postal employee should clearly and legibly sign his/her name as well as the date and time of pickup. A sample copy is appended.

8. Generally, the completed Express Mail receipts for each envelope is returned to Unilever from the Post Office verifying the "date and time in" and based on the weight of the envelope, the fee charge.

The initial procedure for Express Mail delivery was set up on December 5, 1991 with Richard Myhren-Postmaster, Edgewater, NJ; Ronald Gilliam, Office Services Manager, Unilever; and members of the Unilever Patent Department. The Postmaster contacted the Newark Post Office and obtained the Corporate Express Account X070246 for Unilever.

REMEDY FOR CORRECTION TO FILING DATE

1. Upon receipt of the Official Filing Receipt and the postcard receipt, **ADMIN** reviews both to verify the correct filing date was accorded to the application. If there is a discrepancy, **ADMIN** prepares a "Request for Corrected Filing Receipt" for submission to the USPTO.

   The request generally includes the following information/attachments:

   a) Pickup Statement with Express Mail item shown on form and the date and time of pickup.

   b) The specific Express Mail Receipt related to the application filing.

   c) Postcard receipt for the application filing indicating the date deposited.

   d) PTO Transmittal Letter verifying the date deposited.

   e) The Express Mail "confirmation statement" from the U.S. Postal Service website. This site tracks all Express Mail envelopes.

2. If Step #1 does not result in obtaining the "date deposited" filing date, a Petition may be required. The attorney of record will most likely need to provide the appended Express Mail Procedure as proof of our intention to obtain the "date deposited" filing date.

United States Postal Service

Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post

[redacted]

2. Customer Name and Address *(No., Street, Ste. No., City, and State)*

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

3.

Express Mail	Quantity
Priority Mail	Quantity
Parcel Post	Quantity

4. Custom Design Agreement (CDA)

CDA Number _____

5. Method of Payment

☐ Corporate Account No. _____ ☐ Federal Agency Account No. _____ ☒ Meter Strip or Stamps *(Apply fee in item 1 above)*

6. Express Mail Label Numbers

Item No.	Express Mail Label Number	Item No.	Express Mail Label Number	Item No.	Express Mail Label Numb r
1	EU 519 960 958 US (MT)	6		11	
2	EU 519 960 140 US (MLH)	7		12	
3	EU 519 960 136 US (MLH)	8		13	
4		9		14	
5		10		15	

7. Customer Signature

8a. USPS Signature [redacted] 8b. Date of Pickup [redacted] 8c. Time of Pickup [redacted]

PS Form **5541**, August 1996

3 - Customer Copy

UNITED STATES POSTAL SERVICE

Track & Confirm

Shipment Details

You entered EU51 9960 958U S

Your item was delivered at 7:46 am on April 07, 2003 in WASHINGTON, DC 20231 to PATENTS 20231. The item was signed for by D BOSSON.

Here is what happened earlier:

- NOTICE LEFT, April 05, 2003, 11:31 am, WASHINGTON, DC 20231
- ARRIVAL AT UNIT, April 05, 2003, 9:15 am, WASHINGTON, DC 20599

Track & Confirm

Enter label number:

Track & Confirm FAQs

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

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PATENT
CASE # C4215(C)
UNUS #: 02-0320-UNI

OIPE JC130
NOV 1 2 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.: 000201
Applicant: Findlay et al.
Serial No.: 10/406,952
Filed: April 4, 2003
For: FABRIC TREATMENT COMPOSITIONS

EDGEWATER, NEW JERSEY 07020
November , 2003

VERIFIED CERTIFICATION OF EXPRESS MAILING DATE *(37 CFR § 1.10(c))*

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, SUSAN MARTIN, declare that:

1. I prepared the Pick-up Service Receipt (copy attached) identifying the envelope by its Express Mail Label EU 519 960 958 US and I signed this receipt on April 4, 2003.

2. I personally delivered the envelope of paragraph 1 to a postal employee who signed the Pick-up Service Receipt of paragraph 2, with the name Tonya Johnson at 3:40 p.m. on April 4, 2003 as evidence that she had received the items listed on the Pick-up Service receipt, one of which was the envelope of paragraph 1 with the mailing label of EU 519 960 958

C4215(C)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SUSAN MARTIN

Susan Martin

Dated: 10/27/03

United States Postal Service

Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post

[redacted]

2. Customer Name and Address *(No., Street, Ste. No., City, and State)*

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

3.

	Quantity
Express Mail	
Priority Mail	
Parcel Post	

4. Custom Design Agreement (CDA)

CDA Number _____

5. Method of Payment

☐ Corporate Account No. _____ ☐ Federal Agency Account No. _____ ☒ Meter Strip or Stamps *(Apply fee in Item 1 above)*

6. Express Mail Label Numbers

Item No.	Express Mail Label Number	Item No.	Express Mail Label Number	Item No.	Express Mail Label Number
1	EU 519 960 958 US (MT)	6		11	
2	EU 519 960 140 US (MLH)	7		12	
3	EU 519 960 136 US (MLH)	8		13	
4		9		14	
5		10		15	

7. Customer Signature Susan Martin

[redacted]

PS Form 5541, August 1996

3 - Customer Copy

OIPE JC100
MAY 1 2 2003
PATENT & TRADEMARK OFFICE

United States Postal Service

Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post

[redacted]

2. Customer Name and Address *(No., Street, Ste. No., City, and State)*

Unilever
Patent Department
45 River Road
Edgewater, NJ 07020

3.

Express Mail	Quantity
Priority Mail	Quantity
Parcel Post	Quantity

4. Custom Design Agreement (CDA)

CDA Number _____

5. Method of Payment

☐ Corporate Account No. _____ ☐ Federal Agency Account No. _____ ☒ Meter Strip or Stamps *(Apply fee in item 1 above)*

6. Express Mail Label Numbers

Item No.	Express Mail Label Number	Item No.	Express Mail Label Number	Item No.	Express Mail Label Number
1	EU 519 960 958 US (MT)	6		11	
2	EU 519 960 140 US (MLH)	7		12	
3	EU 519 960 136 US (MLH)	8		13	
4		9		14	
5		10		15	

7. Customer Signature

8a. USPS Signature [redacted]

8b. Date of Pickup [redacted]

PS Form **5541**, August 1996

3 - Customer Copy

OIPE JC100
NOV 1 2 2003
PATENT & TRADEMARK OFFICE

UTILITY PATENT APPLICATION TRANSMITTAL

(for new applications under 37 C.F.R. § 1.53(b))

Attorney Docket No.: C4215(C)
Applicant: Paul Hugh FINDLAY; Joseph Edward HUNTER; Laxmikant TIWARI; Nicola WHILTON
For: FABRIC TREATMENT COMPOSITIONS
Express Mail Label No.: EU 519 960 958 US
Date Deposited: April 4, 2003
UNUS No.: 02-0320-UNI
Assignee: Unilever Home & Personal Care USA, Division of Conopco, Inc.

To: Assistant Commissioner for Patents
Box: Patent Application
Washington, D.C. 20231

APPLICATION ELEMENTS

1. ☒ Fee Calculation (Box 13) and Authorization (Triplicate copies of this form are enclosed)
2. ☒ Specification and Claims (58) Total Pages
3. ☐ Formal or Informal Drawings ( ) Total Sheets
4. ☒ Unexecuted Declaration
5. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
   a. ☐ Computer Readable Copy
   b. ☐ Paper copy (identical to computer copy)
   c. ☐ Statement verifying identify of above copies.

ACCOMPANYING APPLICATION PARTS

6. ☐ Information Disclosure Statement (IDS)/PTO-1449
7. ☐ Copies of IDS citations
8. ☒ Preliminary Amendment
9. ☒ Two (2) Return Receipt Postcards
10. ☐ Certified Copy of Priority Document
11. ☒ The benefit under 35 U.S.C. § 119 is claimed of the filing of United Kingdom Application No. 0207850.9 filed April 4, 2002.
12. ☐ Other:
13. ☒ The FILING FEE (including any claims introduced or cancelled by Preliminary Amendment) is calculated below:

CLAIMS					
FOR	NUMBER FILED		NUMBER EXTRA	RATE	BASIC FEE $750.00
Total Claims	32 - 20		12	X $ 18.00	$216.00
Independent Claims	2 - 3			X $ 84.00	
Multiple Claims	Yes	No		X $280.00	
TOTAL FILING FEE . . .					$966.00

newutil.tl
Revised 04/04/00

14. ☒ Charge $966.00 to Deposit Acct. #12-1155. Triplicate copies of this letter are enclosed.

15. ☒ The Commissioner is hereby authorized to charge any additional fees, which may be required, including all required fees under
☒ 37 C.F.R. § 1.16;
☒ 37 C.F.R. § 1.17;
☒ 37 C.F.R. § 1.18.

16. ☒ **Correspondence Address:**

CUSTOMER NUMBER: 000201

Respectfully submitted,

Alan A. Bornstein
Attorney of Record
Reg. #40,919

AAB/mt
(201) 840-2680

newutil.tl
Revised 04/04/00

BORNSTEIN

PATENTS

C813 U.S. PTO
10/406952
04/07/03

New Patent Application for:

Applicant: Paul Hugh FINDLAY; Joseph Edward HUNTER; Laxmikant TIWARI; Nicola WHILTON

Deposited: April 4, 2003

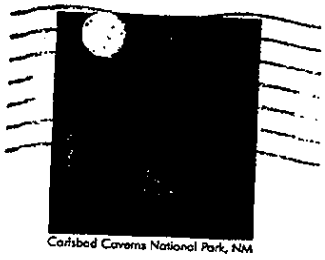
For: FABRIC TREATMENT COMPOSITIONS

Enclosed are Transmittal Letter (in Triplicate) Charging Deposit Acct. #12-1155; Specification and Claims (58 pages); Unexecuted Declaration; Certificate of Mailing via Express Mail #EU 519960958 US

Docket No.: 02-0320-UNI

Case No.: C4215(C)

BALTIMORE, MD 212
PM
10
2003



Carlsbad Caverns National Park, NM

UNILEVER PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NEW JERSEY 07020

03

C4215(C)

OIPE
NOV 12 2003
PATENT & TRADEMARK OFFICE

PATENT

CASE # C4215(C)
UNUS #: 02-0320-UNI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	000201
Applicant:	Findlay et al.
Serial No.:	10/406,952
Filed:	April 4, 2003
For:	FABRIC TREATMENT COMPOSITIONS

EDGEWATER, NEW JERSEY 07020
November , 2003

VERIFIED CERTIFICATION OF EXPRESS MAILING DATE *(37 CFR § 1.10(c))*

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, MICHELE TRAPP, declare that:

1. I prepared the attached transmittal letter bearing Express Mail certificate number EU 519 960 958 US.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,

under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

MICHELE TRAPP

Michele Trapp

Dated: Nov. 6, 2003

UTILITY PATENT APPLICATION TRANSMITTAL

(for new applications under 37 C.F.R. § 1.53(b))

Attorney Docket No.: C4215(C)
Applicant: Paul Hugh FINDLAY; Joseph Edward HUNTER; Laxmikant TIWARI; Nicola WHILTON
For: FABRIC TREATMENT COMPOSITIONS
Express Mail Label No.: EU 519 960 958 US
Date Deposited: April 4, 2003
UNUS No.: 02-0320-UNI
Assignee: Unilever Home & Personal Care USA, Division of Conopco, Inc.

To: Assistant Commissioner for Patents
Box: Patent Application
Washington, D.C. 20231

APPLICATION ELEMENTS

1. ☒ Fee Calculation (Box 13) and Authorization (Triplicate copies of this form are enclosed)
2. ☒ Specification and Claims (58) Total Pages
3. ☐ Formal or Informal Drawings ( ) Total Sheets
4. ☒ Unexecuted Declaration
5. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
   a. ☐ Computer Readable Copy
   b. ☐ Paper copy (identical to computer copy)
   c. ☐ Statement verifying identify of above copies.

ACCOMPANYING APPLICATION PARTS

6. ☐ Information Disclosure Statement (IDS)/PTO-1449
7. ☐ Copies of IDS citations
8. ☒ Preliminary Amendment
9. ☒ Two (2) Return Receipt Postcards
10. ☐ Certified Copy of Priority Document
11. ☒ The benefit under 35 U.S.C. § 119 is claimed of the filing of United Kingdom Application No. 0207850.9 filed April 4, 2002.
12. ☐ Other:
13. ☒ The FILING FEE (including any claims introduced or cancelled by Preliminary Amendment) is calculated below:

CLAIMS					
FOR	NUMBER FILED		NUMBER EXTRA	RATE	BASIC FEE $750.00
Total Claims	32 - 20		12	X $ 18.00	$216.00
Independent Claims	2 - 3			X $ 84.00	
Multiple Claims	Yes	No		X $280.00	
TOTAL FILING FEE . . .					$966.00

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Revised 04/04/00

14. ☒ Charge $966.00 to Deposit Acct. #12-1155. Triplicate copies of this letter are enclosed.

15. ☒ The Commissioner is hereby authorized to charge any additional fees, which may be required, including all required fees under
☒ 37 C.F.R. § 1.16;
☒ 37 C.F.R. § 1.17;
☒ 37 C.F.R. § 1.18.

16. ☒ **Correspondence Address:**

CUSTOMER NUMBER: 000201

Respectfully submitted,

Alan A. Bornstein
Attorney of Record
Reg. #40,919

AAB/mt
(201) 840-2680

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Revised 04/04/00

C4215(C)

PATENT

OIPE
NOV 1 2 2003
JC100
PATENT & TRADEMARK OFFICE

CASE # C4215(C)
UNUS #: 02-0320-UNI

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	000201
Applicant:	Findlay et al.
Serial No.:	10/406,952
Filed:	April 4, 2003
For:	FABRIC TREATMENT COMPOSITIONS

EDGEWATER, NEW JERSEY 07020
November , 2003

VERIFIED CERTIFICATION OF EXPRESS MAILING DATE *(37 CFR § 1.10(c))*

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, MIREYA VILLEGAS, declare that:

1. I observed that the transmittal letter bearing Express Mail certificate number EU 519 960 958 US, (copy attached) together with the specification and claims and executed declaration, was placed in an envelope bearing an "Express Mail, Post Office to Addressee", Mailing Label Number EU 519 960 958 US. The envelope was addressed to the "Commissioner of Patents and Trademarks, Alexandria, VA 22313-1450". .

C4215(C)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

MIREYA VILLEGAS

Mireya Villegas

Dated: 11-7-03.

UTILITY PATENT APPLICATION TRANSMITTAL

(for new applications under 37 C.F.R. § 1.53(b))

Attorney Docket No.: C4215(C)
Applicant: Paul Hugh FINDLAY; Joseph Edward HUNTER; Laxmikant TIWARI; Nicola WHILTON
For: FABRIC TREATMENT COMPOSITIONS
Express Mail Label No.: EU 519 960 958 US
Date Deposited: April 4, 2003
UNUS No.: 02-0320-UNI
Assignee: Unilever Home & Personal Care USA, Division of Conopco, Inc.

OIPE JC100 NOV 1 2 2003 PATENT & TRADEMARK OFFICE

To: Assistant Commissioner for Patents
Box: Patent Application
Washington, D.C. 20231

APPLICATION ELEMENTS

1. ☒ Fee Calculation (Box 13) and Authorization (Triplicate copies of this form are enclosed)
2. ☒ Specification and Claims (58) Total Pages
3. ☐ Formal or Informal Drawings ( ) Total Sheets
4. ☒ Unexecuted Declaration
5. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
   a. ☐ Computer Readable Copy
   b. ☐ Paper copy (identical to computer copy)
   c. ☐ Statement verifying identify of above copies.

ACCOMPANYING APPLICATION PARTS

6. ☐ Information Disclosure Statement (IDS)/PTO-1449
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CLAIMS					
FOR	NUMBER FILED		NUMBER EXTRA	RATE	BASIC FEE $750.00
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Independent Claims	2 - 3			X $ 84.00	
Multiple Claims	Yes	No		X $280.00	
TOTAL FILING FEE . . .					$966.00

newutil.tl
Revised 04/04/00

14. ☒ Charge $966.00 to Deposit Acct. #12-1155. Triplicate copies of this letter are enclosed.

15. ☒ The Commissioner is hereby authorized to charge any additional fees, which may be required, including all required fees under
☒ 37 C.F.R. § 1.16;
☒ 37 C.F.R. § 1.17;
☒ 37 C.F.R. § 1.18.

16. ☒ **Correspondence Address:**

CUSTOMER NUMBER: 000201

Respectfully submitted,

Alan A. Bornstein
Attorney of Record
Reg. #40,919

AAB/mt
(201) 840-2680

newutil.tl
Revised 04/04/00

PATENT

CASE # C4215(C)
UNUS #: 02-0320-UNI

OIPE JC100
NOV 1 2 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	000201
Applicant:	Findlay et al.
Serial No.:	10/406,952
Filed:	April 4, 2003
For:	FABRIC TREATMENT COMPOSITIONS

EDGEWATER, NEW JERSEY 07020
November , 2003

VERIFIED DECLARATION OF EXPRESS MAILING DATE *(37 CFR § 1.10(c))*

Hon. Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Sir:

I, LINDA HORVATH, declare that:

On or about June 12, 2003 I spoke to Soraya Johnson of the U.S. Post Office in Cliffside Park, New Jersey, in order to try to locate the missing Express Mail receipt that was never returned by the Post Office. Ms. Soraya Johnson agreed to investigate the situation and contacted the Post Office in Kearny, New Jersey in order to locate the Express Mail receipt. During a subsequent phone call with the Post Master, Frank Zeevalk, on or about September 24, 2003, he advised me that he had been unable to locate the Express Mail receipt, and that it appeared to be lost.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and

further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

LINDA HORVATH

Linda Horvath

Dated: 10/24/03

UNITED STATES PATENT AND TRADEMARK OFFICE

H·A

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

122005

LAW OFFICES OF NATAN EPSTEIN
11377 WEST OLYMPIC BOULEVARD
TRIDENT CENTER - 9TH FLOOR
LOS ANGELES, CA 90064

DEC 29 2005

In re Application of: Maer Skegin et al. Serial No.: 10/406,968 Filed: April 3, 2003 For: COUNTER LIGHT FIXTURE	: : : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 17, 2005, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the non-final Office action of February 4, 2005. A Notice of Abandonment was mailed on September 27, 2005.

Petitioner asserts that the non-final Office action mailed February 4, 2005, was not received. To support this assertion, petitioner asserts that the Office action of February 4, 2004 was returned undelivered and was re-mailed on March 14, 2005, to a law firm not associated with the applicant. Nonetheless, the law firm forwarded the Office action to the petitioner. A reply was filed on September 13, 2005, along with an extension of time of three months. Based on the date the action was re-mailed, the reply was timely. However, the examiner issued a notice of abandonment for failure to timely reply to the Office action of February 4, 2005, even though this action was returned undelivered.

A review of the written record indicates that the non-final Office action mailed February 4, 2005, was mailed to an old address that should not have been used the address of record. There is no apparent reason why the address of record was not changed to the above-indicated address since the change of address, as reflected in the prior application, was submitted on filing. It is evident that the non-final Office action was mailed to an incorrect address and was returned undelivered by the US Postal Service. The Office action was re-mailed on March 14, 2005, to another address and the time to reply was reset to run three months from that date with extension of time being governed by 37 CFR 1.136(a). As such, the reply of September 13, 2005, along with the

three-month extension of time, was timely filed and the application should not have been held abandoned.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

The reply filed September 13, 2003 will be entered and the examiner will re-examine the application and take appropriate action.

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (703) 308-0519.

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY -4 2005

In re Application of	:	
Richard S. Chomik	:	
Serial No. 10/406,991	:	DECISION ON
Filed: April 3, 2003	:	PETITION TO WITHDRAW
For: WASTE DISPOSAL APPARATUS	:	AS ATTORNEY

By papers filed on February 4, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Charles Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle
One Landmark Square, 10th Floor
Stamford, CT 06901

Donna Magaha
Office of the Director
Technology Center 3700

Hans-Peter G. Hoffman
Pillsbury Winthrop, LLP
695 East Main Street
Stamford, CT 06904-6760

UNITED STATES 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

COPY MAILED

SEP 12 2003

OFFICE OF PETITIONS

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of :
Zeng, et al. :
Application No. 10/406,995 :
Filed: April 3, 2003 :
Attorney Docket No. 100203421-1 :

DECISION GRANTING PETITION

This is a decision on the petition filed June 8, 2003, requesting that the above-identified application retain the presently accorded a filing date of April 3, 2002, with pages 17, 18, and 21 of the specification as part of the original disclosure.

On April 3, 2003, the above-identified application was filed. On June 6, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of April 3, 2003, however, pages 17, 18, and 21 of the specification appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on July 8, 2003, applicants filed the present petition, a copies of pages 17, 18, and 21 of specification, and a copy of the Office date-stamped postcard receipt acknowledging 23 pages of specification, claims, and abstract.

Upon review of the record, pages 17, 18, and 21 of the specification were not located among the original application papers. The evidence is convincing, however, that pages 17, 18, and 21, accompanied the original application papers. Therefore, the application, including pages 17, 18, and 21 of the specification, was complete on filing and entitled to the presently accorded filing date of April 3, 2003

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 3, 2003, using the 23 pages encompassing the specification, claims, and abstract filed April 3, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Pan et al.	:	
Application No. 10/406,998	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. UCIP349	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 29, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEDTRONIC
Attn: Noreen Johnson - IP
Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

COPY MAILED

SEP 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,563,281	:
Sears et al.	:
Issue Date: July 21, 2009	:
Application No. 10/407,010	: DECISION ON REQUEST FOR
Filed: April 3, 2003	: RECONSIDERATION OF
Attorney Dkt. No. MSDI-	: PATENT TERM ADJUSTMENT
446/PC763.00	:
Title: Apparatus and Method For	:
Supporting Vertebral Bodies	:

This is in response to the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 35 USC §154" filed July 27, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 244 days to 357 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 21, 2009, the above-identified application matured into US Patent No. 7,563,281 with a patent term adjustment of 244 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that there is no overlap between the periods of delay under 35 U.S.C. § 154(b)(1)(A) and § 154(b)(1)(B).

Patentees submit that the total period of adjustment for Office delay is 497 days (the sum of the period of three-year delay (113 days)[1] and the period of examination delay (384 days). As such, patentees assert entitlement to a patent term adjustment of 357 days).

Pursuant to 35 U.S.C 154(b)(1)(B), the term of a patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. This period does not include any time consumed by continued examination of the application requested by the applicant under section 132(b). Thus, the relevant period in considering this overlap ends with applicants' filing of the request for continued examination (RCE) pursuant to section 132(b). Further, the period for over three-year pendency does not include any period of adjustment which overlaps with the period of adjustment for Office delay accorded pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR1.702(a).

The Office finds that as of the filing of the request for continued examination (RCE) on July 31, 2006, the application was pending three years and 119 days after its filing date. Moreover, as of the filing of the RCE, 266 days of adjustment for Office delay had been accorded pursuant to 35 U.S.C. 154(b)(1)(A) and § 1.702(a)(1).[2] At issue is whether the period of adjustment of 119 days attributable to the Office taking in excess of three years to issue the patent overlaps with the adjustment of 266 days attributable to the Office's failure to issue a first Office action no later than fourteen months after the application filing date.

---

[1] The record reveals that the RCE, received in the Office on July 31, 2006, contained a certificate of mailing dated July 26, 2006. It is noted that the date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). While the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing the RCE (37 CFR 1.6), July 31, 2006, will be the date used in the patent term adjustment calculation. See MPEP 2371. Thus, the period of adjustment under 37 CFR 1.703(b) is 119 days (the period from April 4, 2006 to July 31, 2006).

[2] 118 days of adjustment under 37 CFR 1.702(a)(4) were accorded subsequent to the filing of the RCE, and thus, are not considered in determining overlap with the 3 year period.

The Office contends that the 119-days period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg.

56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A). The period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is from the filing of the application on April 3, 2003 until the filing of the RCE on July 31, 2006. 266 days of adjustment for Office delay were accorded prior to the filing of the RCE. The 119 days attributable to the delay under § 1.702(b) overlap with the period of adjustment of 266 days attributable to grounds specified in § 1.702(a)(1) (118 days were accorded subsequent to the filing of the RCE).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 244 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Patent Legal Administration

Cc: Kreig DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	M. Easley et al.
U.S. Patent No.:	7,397,850
Issue Date:	July 8, 2008
Serial No.	10/407,041
Filing Date:	April 4, 2003
Title:	Reciprocal Index Lookup for BTSC Compatible Coefficients
Art Unit:	2611
Confirmation No.:	3883
Docket No.	056233-0284 (THAT-24)

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR CERTIFICATE OF CORRECTION

The patentees of the above-identified patent, through their attorney, hereby petitions for issuance of a Certificate of Correction in the above-identified patent. A Certificate of Correction is required to correct the following errors:

IN THE CLAIMS:

Column 10, line 10, delete "value" and replace with "valve".
Column 10, line 21, delete "die" and replace with "the".
Column 10, line 23, delete "die" and replace with "the".

The correction is not believed to involve such change as would constitute new matter or require examination. It is respectfully requested that a Certificate of Correction be issued to correct the above-noted errors. Enclosed herewith is a proposed Certificate of Correction indicating the error and correction thereof.

Please charge any fees to Deposit Account No. 50-1133.

Respectfully submitted,

Date: 19 November 2008

Toby H. Kusmer, P.C., Registration No. 26,418
MCDERMOTT WILL & EMERY LLP
28 State Street
Boston, MA 02109-1775
Telephone: (617) 535-4065
Facsimile: (617) 535-3800
E-mail: tkusmer@mwe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 7,397,850

APPLICATION NO.: 10/407,041

ISSUE DATE: July 8, 2008

INVENTOR(S): Matthew F. Easley, 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:

IN THE CLAIMS:

Column 10, line 10, delete "value" and replace with "valve".
Column 10, line 21, delete "die" and replace with "the".
Column 10, line 23, delete "die" and replace with "the".

MAILING ADDRESS OF SENDER:
Toby H. Kusmer, P.C.
McDermott Will & Emery LLP
28 State Street
Boston, MA 02109-1775

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 12/9/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/407041 Patent No.: 7397850 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Column 10, line 10, delete "value" and replace with "valve" has been denied because it would constitute new matter.

Thanks
E.B.

/Chieh M. Fan/ — **SPE**

2611 — **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

William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Mitsutoshi Shinkai	: DECISION ON REQUEST FOR
Patent Number	: 7590329	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/407,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1285** 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. 4

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

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FEB 11 2004
OFFICE OF PETITIONS

In re Application of
Patrick Curlier et al.
Application No. 10/407,069
Filing Date: April 4, 2003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 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 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2003.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HWELETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

In re Application of :
Ciaran Byrne and Bradley Fedosoff :
Application No. 10/407,074 : DECISION ON PETITION
Filed: April 2, 2003 :
Title: COMPUTING ENVIRONMENT WITH :
BACKUP SUPPORT :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 23, 2006, which has been treated as a petition under 37 CFR 1.183.[1]

The petition is dismissed.

Petitioner 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 1.183," 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.

Petitioner has failed to show that the non-signing inventor cannot be reached after diligent effort. Applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing the instant petition, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited

[1] Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.

therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HWELETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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APR 25 2006
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COPY MAILED
APR 26 2006
OFFICE OF PETITIONS

In re Application of :
Ciaran Byrne and Bradley Fedosoff :
Application No. 10/407,074 :
Filed: April 2, 2003 :
Title: COMPUTING ENVIRONMENT WITH :
BACKUP SUPPORT :

DECISION ON PETITION

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 23, 2006, which has been treated as a petition under 37 CFR 1.183.[1]

The petition is dismissed.

Petitioner 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 1.183," 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.

Petitioner has failed to show that the non-signing inventor cannot be reached after diligent effort. Applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing the instant petition, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited

[1] Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.

therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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INTELLECTUAL PROPERTY ADMINISTRATION
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JUL 19 2006
OFFICE OF PETITIONS

In re Application of :
Ciaran Byrne and Bradley Fedosoff :
Application No. 10/407,074 : DECISION ON PETITION
Filed: April 2, 2003 :
Title: COMPUTING ENVIRONMENT WITH :
BACKUP SUPPORT :

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.183" filed June 12, 2006.

Petitioner states:

> "Applicant respectfully submits that a request for reconsideration and correction of deficiencies in the petition of the Declarations filed under 37 CFR 1.131 in compliance with 37 CFR 1.47 (treated as a petition under 37 CFR 1.183) filed by the Applicant on February 23, 2006, is now moot as the Examiner has withdrawn the reference at issue as prior art. Applicant includes a copy of the Examiner Office Action dated May 17, 2006 indicating this fact. Applicant will respond to this newly received office action."

Accordingly, the petition is dismissed as moot.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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APR 28 2005

In re Application of	:	
Henry Seamon	:	
Serial No. 10/407,077	:	DECISION ON PETITION
Filed: April 4, 2003	:	TO WITHDRAW AS ATTORNEY
For: ACCESSORY CASE	:	

By papers filed on January 3, 2005, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Mr. Henry Seamon
375 Greenleaf Street
Allentown, PA 18102

Donna Mazalo
Office of the Director
Technology Center 3700

Stephen E. Feldman, PC
12 East 41st Street, Suite 1302
New York, NY 10017

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NOV 23 2007

MARSHAL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of:	:
Walker et al.	:
Serial No.: 10/407,078	: PETITION DECISION
Filed: April 3, 2003	:
Attorney Docket No.: A-813A	:

This is in response to the petition under 37 CFR § 1.181, filed September 24, 2007, requesting that the finality of the Office action of July 27, 2007 be withdrawn.

BACKGROUND

The examiner mailed a Requirement for Restriction on September 28, 2005, which required an election of one invention from 8 patentably distinct inventions. The Requirement for Restriction indicated that claims 1-37 were pending and were subject to restriction. The Requirement set a one month shortened statutory period for reply.

In response to the Requirement for Restriction of September 28, 2005, applicants submitted arguments pertaining to the Requirement for Restriction and an amendment, amending claims 1-11 on November 2, 2005. Applicants elected the invention of Group III, directed toward claims 12-17, 24 and 33-36. Applicants requested that claims 1-11, being amended to recite a fusion, should properly be placed in Group III and examined along with claims 12-17, 24 and 33-36. Applicants' arguments included the traversal of the Requirement for Restriction set forth on September 28, 2005.

The examiner mailed a non-final Office action on January 25, 2006, setting a three month shortened statutory period for reply. In this action, claims 1-37 were pending, claims 18-23, 25-32 and 37 were withdrawn from examination on the merits, claims 1-9, 12-15 and 33 were rejected and claims 1-17, 24 and 34-36 were objected to. The examiner acknowledged the election by applicant of Group III, as well as claims 1-11 directed toward the invention of Group III. The examiner provided arguments for maintaining the restriction between remaining inventions and finalized the restriction requirement, indicating that claims 1-17, 24 and 33-36 were examined on their merits. The examiner objected to claims 10, 16 and 34 for containing the acronym 'TPO.' The examiner additionally objected to claims 1-17 and 24 for "...being

drawn to non-elected subject matter." Claims 1, 8 and 9 were rejected under 35 USC 102(a) as being anticipated by Sundaram et al. and rejected under 35 USC 102(e) as being anticipated by US 2002/0160394A1. Claims 1-9, 12-15 and 33 were rejected under 35 USC 103(a) as being unpatentable over US 2002/0160394 A1 in combination with US Patent 4,002,531. Claims 10-11, 16-17, 24 and 34-36 were not rejected over prior art. No claims were allowed.

In response to the non-final Office action of January 25, 2006, applicants submitted arguments, amended claims 1-3, 8-10, 12-13, 18-21, 30, 32, 34 and 36-37 and added new claims 38-39. In applicants' arguments, applicants requested that the claim objections be withdrawn and stated that "Although the Applicants should have been permitted to claim this invention generically, in order to expedite allowance, the Applicants have amended the claims so as not to refer to TTR variants. Accordingly, the objection is believed to be moot, and should be withdrawn", as well as, "...Applicants have canceled claims and/or amended claims to avoid claims that read on non-elected subject matter (e.g., subject matter relating to TTR *variants*; processes for preparing)..." (emphasis in Applicant's original arguments). Applicants additionally stated, "All claim amendments are for the purposes of complying with the restriction requirement and/or for expediting allowance of claims directed to preferred embodiments, and not for reasons relating to patentability." Applicants argued against the rejections made in the non-final Office action of January 25, 2006 under 35 USC 102(a), 35 USC 102(e) and 35 USC 103(a) and requested their removal. Applicants additionally requested a rejoinder of claims 29-32 because " The elected claims are directed to products, and claims 29-32 are directed to methods of using such products."

On August 24, 2006, the examiner issued a second Requirement for Restriction setting a one month shortened statutory period for reply. The examiner indicated that claims 1-6, 8-21, 24, 29-34 and 36-39 were pending, claims 18-21, 29-33 and 37-39 were withdrawn from consideration and claims 1-6, 8-17, 24, 34 and 36 were subject to restriction and/or election requirement. The examiner required an election between "..patentably distinct species of biologically active peptide or protein selected from cytokines, hematopoietic factors, interleukins, growth factors, trophic factors and hormones, including the species recited in claims 8 and 9."

In response to the second Requirement for Restriction of August 24, 2006, applicants submitted an election of species on November 22, 2006, electing the species of 'Glucagon-like peptide-1' (GLP-1). Applicants' response included an amendment to claim 38, striking 'or a TTR variant' from the claim. Applicants argued:

> Claim 38 was amended herein to be commensurate with the subject matter that the Applicants elected in response to the first restriction requirement, and not for any reason relating to patentability. As a consequence of this and prior amendments, the Applicants believe that claims 18-21, 33 and 38-39 all are directed to the elected "Group III" invention and request rejoinder and examination of these claims. This request is based on consonance with the subject matter elected in response to the first restriction requirement, and is not a new ground of traversal of that requirement. The indicated claims, like the claims currently under examination, are drawn to a transthyretin-biologically active agent fusion

The examiner mailed a second non-final Office action on February 26, 2007, setting a three month shortened statutory period for reply. In this Office action, the examiner indicated that claims 1-6, 8-21, 24, 29-34 and 36-39 were pending, claims 2-6, 8-21, 24, 29-34 and 36-39 were withdrawn from consideration and claim 1 was rejected. The examiner acknowledged applicants' election of the species of GLP-1 fused to transthyretin (TTR) and additionally indicated that this species was free of the prior art. The examiner stated that:

> Those claims that read upon GLP-1 are allowable only insofar as they read upon GLP-1 fused to TTR. Being that no independent claim reads solely on GLP-1, no claim is indicated as allowable in its entirety. Consequently, the examiner has extended the search to other species in the broad genus and found prior art; therefore, all claims not reading on the anticipated species of the broad genus are withdrawn from consideration until such a time that a generic claim is found free of the prior art.

The examiner rejected claim 1 under 35 USC 102(b) as being anticipated by US 4,771,008, US 5,532,166 and Reppe et al. (1998) respectively.

In response to the non-final Office action of February 26, 2007, applicants submitted arguments and an amendment to the claims including the addition of new claims 40 and 41. Applicants argued that the designation of claims 2-6, 8-9, 11-15, 17-21, 24, 31-33 and 36-39 as being withdrawn was improper, and requested examination of these claims as the applicants indicated that these claims were directed toward the elected invention and/or the elected species. Applicants additionally argued the rejections made by the examiner under 35 USC 102(b). Applicants further requested a rejoinder of linking claims upon allowance of a generic claims and requested a rejoinder of method claims 29-32.

The examiner mailed a final Office action on July 24, 2007, setting a three month shortened statutory period for reply. In this Office action, the examiner indicated that claims 1-6, 8-21, 24, 29-34 and 36-41 were pending, claims 2-6, 8-21, 24, 29-34 and 36-41 were withdrawn from consideration, and claim 1 was rejected. The examiner responded to applicants' arguments pertaining to the withdrawal of claims 2-6, 8-9, 11-15, 17-21, 24, 31-33 and 36-39 from examination on the merits:

> The Applicants traverse the original restrictive Groups on the ground(s) that the claims 18-21, 33 and 38-39 have been amended so as to be encompassed by original Inventive Group III. This is found persuasive because a review of the amendments does place the claims in original Inventive Group III. The elected species of GLP-1 fused to transthyretin (TRR) was found free of the prior art. Those claims that read upon GLP-1 are allowable only insofar as they read upon GLP-1 fused to TTR. Being that no independent claim reads solely on GLP-1, no claim is indicated as allowable in its entirety....the examiner has extended the search to other species in the broad genus and found prior art; therefore, all claims not reading on the anticipated species of the broad gnus are withdrawn from consideration until such a time that a generic claim is found free of the prior art...

The examiner cited the MPEP § 803.02:

> Should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended. If the prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a nonelected species, the Markush-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species

The examiner stated that the examination had been extended and that prior art was found that anticipated a non-elected species. The examiner indicated that "Since no claim, including claim 33, reads solely on GLP-1 no claim is indicated as allowable in entirety..." and hence, upheld the decision to maintain the withdrawal of claims 2-6, 8-9, 11-15, 17-21, 24, 31-33 and 36-39. The examiner maintained the previous rejection of claim 1 under 35 USC 102(b) over US 4,771,008, US 5,532,166 and Reppe et al. (1998) respectively.

In response thereto, applicants filed this petition on September 24, 2007, requesting that the finality of the Office action of July 24, 2007 be withdrawn.

DISCUSSION

In the petition filed on September 24, 2007 applicants argues:

> A final action is premature when issued before patent applicants have received a complete first (non-final) office action on the merits...The Patent Office has failed to conduct a complete examination of all of the claims that read on a species of invention that was elected in response to the Patent Office's restriction and election of species requirements....Applicants have repeatedly identified many genus claims of varying scope that read on the elected species...but the Patent Office has not examined all of these claims, or even examined claim 15, directed to the elected species...Instead, the Examiners have withdrawn claim 15 and all other proper genus claims (except claim 1) from consideration....

Applicants' arguments are persuasive.

37 CFR 1.113 states, in part:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or...patent owner's reply is limited to appeal in the case of rejection of any claim...(b) the examiner shall repeat or state all grounds of rejection *then considered applicable to the claims in the application*, clearly stating the reasons in support thereof.... (emphasis added)

In addition, MPEP § 706.07 Final Rejection states:

> Before final rejection is in order *a clear issue should be developed between the examiner and applicant*. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, *the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied....The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application*....In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection (emphasis added)

It is decided that applicants have not received a complete examination of the elected invention. The examiner(s) of this application repeatedly withdrew claims directed toward the claimed invention and did not develop a clear issue of the status of the elected invention. In the first Office action on the merits of January 25, 2006, the examiner indicated that claims 1-17 and 24 and 34-36 were examined along with the elected invention; however, claims 1-17 and 24 were objected to for being directed toward a non-elected invention, and claims 34-36 were objected to for being dependent upon a rejected claim. At this point in the prosecution, it appears that claims 10-11, 16-17, 24 and 34-36 were free of the prior art, because they were not rejected over prior art, however there was no indication that these claims were allowable or 'free' of the prior art, hence, creating confusion. Subsequently, in the response to this first Office action on the merits, the applicants' amendments to the claims on June 2, 2006 prompted the examiner to require an additional election of species. The response filed by applicant on November 22, 2006 made clear that the elected species was GLP-1. The applicants also continually indicated that certain claims had been amended to fall within the elected invention of Group III and requested the examination of these claims. In the second non-final Office action; however, the examiner indicated that claims 1-6, 8-21, 24, 29-34 and 36-39 were pending and that claims 2-6, 8-21, 24, 29-34 and 36-39 were withdrawn from examination on the merits and offered the explanation (to reiterate):

> Those claims that read upon GLP-1 are allowable only insofar as they read upon GLP-1 fused to TTR. Being that no independent claim reads solely on GLP-1, no claim is indicated as allowable in its entirety. Consequently, the examiner has extended the search to other species in the broad genus and found prior art; therefore, all claims *not reading on the anticipated species of the broad genus are withdrawn from consideration until such a time that a generic claim is found free of the prior art* (emphasis added)

However, this reasoning has no basis in the MPEP for the following reasons:

Throughout prosecution of this case, claim 1 has been referred to as a 'linking claim.' This is true, since claim 1 links different species claims.

The MPEP § 809 Linking Claims, recites:

> The *linking claims must be examined with, and thus are considered part of, the invention elected.* When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn (emphasis added).

Therefore, it is clear from the MPEP that the elected invention is first examined, and if the elected invention is found allowable, the allowability of the linking claim is *then* determined.

Further, the case contains claims directed toward Markush-type claims comprising the elected species of GLP-1. The MPEP § 803.02 recites:

> Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable...the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration....*should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended...*

It is noted that claim 1 is not a Markush-type claim as it is not in Markush-type format. While it is not incorrect to reject a linking claim over prior art, the rejection of a linking claim does not remove the requirement that when an elected species in a Markush-type claim is found allowable, an extended search to the non-elected species of the Markush-type claim is necessarily conducted.

The examiner repeatedly indicated that the elected species of GLP-1 was free of the art; however, in the non-final Office action of February 6, 2007 and in the final Office action of July 24, 2007, the examiner withdrew all claims specifically directed toward the elected species of GLP-1 as well as claims specifically directed toward the elected invention (that being claims directed toward the elected invention of Group III). As an example of withdrawn claims directed toward the elected invention; claims dependant upon claim 1, which limit TTR to being chemically modified are directed toward the elected invention of Group III, but were withdrawn from examination. In the final Office action of July 24, 2007, the examiner indicated (to reiterate):

> The Applicants traverse the original restrictive Groups on the ground(s) that the claims 18-21, 33 and 38-39 have been amended so as to be encompassed by original Inventive Group III. This is found persuasive because a review of the amendments does place the claims in original Inventive Group III.

However, after indicating that these claims were properly amended to fall into the invention of Group III, the examiner maintained the withdrawal of claims 18-21, 33 and 38-39 as well as

other claims directed toward the elected invention. The examiner indicated that the search was extended to other non-elected species; however, the species used to reject claim 1 was not a member of any of the claimed Markush-type claims. The examiner withdrew claims specifically directed toward the elected species as well as the elected invention.

Claims specifically directed toward the species of GLP-1 include Markush-type claims which recite the elected species of GLP-1 (and dependant claims thereof which also include the elected species) and claims solely directed toward the species of GLP-1 (and dependent claims thereof which also include the elected species). The examiner improperly withdrew all remaining claims directed toward the elected species and elected invention and it appears that the examiner did not properly extend the search of the Markush-type claims to non-elected species recited therein. If the examiner did extend the search to include all of the non-elected species of the Markush-type claims, and these species were found allowable, there is no suggestion of such in the record of this case, which would include an indication that these claims are allowable but objected to for being dependent upon a rejected base claim.

Therefore, it is unclear what claims or species are allowable; and hence, the applicant has not received a complete examination of the elected invention. It is thus determined that applicant could not readily judge the advisability of an appeal based upon the incomplete examination of the claims.

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.

Bruce Kisliuk
Director, Technology Center 1600

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Millennium Pharmaceuticals, Inc.
40 Landsdowne Street
Cambridge MA 02139

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of
Maria A. Glucksmann
Application No. 10/407,079
Filed: April 3, 2003
Attorney Docket No. MPI03-051OMNIM

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on November 21, 2005, to withdraw the holding of abandonment.

On March 30, 2005, the Office mailed a Restriction Requirement, which set a one-month shortened statutory period to reply. In the apparent absence of a timely and proper response, the Office mailed a Notice of Abandonment on October 27, 2005.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, [1] acknowledging receipt of "Response to Restriction Requirement (2 pages)" in the USPTO on May 31, 2005.[2] The response included a request for an extension of time for response within the first month. A copy of the document is included with this petition.

The Office has located the original "Response to Restriction Requirement," which contained a certificate of mailing dated May 31, 2005. Accordingly, it is concluded that the response was filed timely in the USPTO on May 31, 2005.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

---

[1] Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

[2] The Office notes that Memorial Day was observed on May 30, 2005.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 1649 for further processing.

Telephone inquiries specifically concerning this decision should 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/23/08

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/407081 Patent No: 7298860 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: Drawings ~~have not been~~ have been reviewed for accuracy.

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2614
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Bulkowski et al. :
Application No. 10/407090 :
Filing or 371(c) Date: 04/02/2003 :
Attorney Docket Number: :
TVW/APP42US :

This is a decision on the Petition for Acceptance of Figures 6-8 Described in Specification in Response to Notice to File Missing Parts of Nonprovisional Application," filed June 30, 2003. The petition is properly treated under 37 CFR 1.182. The delay in treating this petition is regretted.

Background

Application papers in the above-identified application were filed on April 2, 2003. On July 21, 2008, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ('Notice"), stating that the application had been accorded a filing; however, Figures 6-8 described in the specification appeared to have been omitted from the application.

In response to the Notice, Applicant filed the present petition and included Figures 6-8. In response to the filing of Figures 6-8 on June 30, 2003, this Office mailed an Updated Filing Receipt changing the filing date of the application to the date that the petition and Figures 6-8 were filed – June 30, 2003.

The present petition

The present petition contends that Figures 6-8 were in fact deposited in this Office with the application papers. In support of this assertion, Petitioner includes a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 8 pages of informal drawings by this Office on April 2, 2003.

Applicable Law, Rules and MPEP

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

Office records reveal that the petition fee submitted June 30, 2003, was refunded on July 3, 2003. No petition fee is due..

The application will be returned to the Office of Patent Application Processing, (formerly the Office of Initial Patent Examination) for further processing with a filing date of April 2, 2003, and an indication that 8 pages of specification were included with the application papers filed on April 2, 2003, using Figures 6-8 filed with the present petition on June 23, 2003.

The address given on the petition differs from the address of record. 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 the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: MOSER, PATTERSON & SHERIDAN, LLP
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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JAN 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Chien	:	
Application No. 10/407,097	:	DECISION ON PETITION
Filing Date: April 3, 2003	:	PURSUANT TO
Issue Date: January 30, 2007	:	37 C.F.R. § 1.78(A)(3)
Patent No. 7,171,183	:	
Attorney Docket No.: 092739	:	
Title: LINEARIZED FRACTIONAL-N	:	
SYNTHESIZER HAVING A CURRENT	:	
OFFSET CHARGE PUMP	:	

This is a decision on the petition filed on February 26, 2009, pursuant to 37 C.F.R. § 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application numbers 10/170,849 and 10/167,811, by way of a certificate of correction.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

A review of the file record fails to disclose that an acceptable claim for the benefit of priority to the above-noted, prior-filed nonprovisional applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii), and Patentee further failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

More specifically, although a benefit claim was included on filing, the benefit claim was not acceptable, as it failed to state the relationship between the present application and the two applications to which benefit has been claimed.

The present application was filed on April 3. 2003. Therefore, since this application was filed after November 29, 2000, a

petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional applications after issuance of the application into a patent. See MPEP § 1481.

A petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in 37 C.F.R. § 1.17(t), and;
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional applications, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that Patentee is entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction.

Receipt of the $1,410 surcharge is acknowledged.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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
10/407,097	04/03/2003	2618	1134	092739	16	4

CONFIRMATION NO. 2968

CORRECTED FILING RECEIPT

51472
GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

OC000000039679665

Date Mailed: 01/26/2010

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)

Hung-Ming Chien, Los Angeles, CA;

Assignment For Published Patent Application

Broadcom Corporation, a California Corporation

Power of Attorney: The patent practitioners associated with Customer Number 51472

Domestic Priority data as claimed by applicant

This application is a CIP of 10/170,849 06/12/2002 PAT 6,985,708
which is a CIP of 10/167,811 06/12/2002 PAT 7,082,176

Foreign Applications

If Required, Foreign Filing License Granted: 05/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/407,097**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LINEARIZED FRACTIONAL-N SYNTHESIZER HAVING A CURRENT OFFSET CHARGE PUMP

Preliminary Class

455

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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HANOVER PARK, IL 60133

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Beane et al.
Application No. 10/407,106
Filed: April 5, 2003
For: Controllably Extendible Restraint Interconnections

This is a decision on the petition under 37 CFR 1.137(a), filed September 8, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 5, 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 August 6, 2003. A Notice of Abandonment was mailed on August 26, 2004.

Petitioner contends the June 5, 2003 Notice was never received. In support, the petition cites problems with the Post Office which occurred during June of **2004**. Did petitioner mean 2003 rather than 2004? Does petitioner have any documentation from the post office in support of his contentions? Does petitioner have any evidence to support the step-daughter moving from the address listed above to another address during June of **2003**?

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. In order to overcome this presumption, petitioner should discuss how mail is handled once it is received. Would all papers related to this application have been kept in a certain location? Has a search of that location been performed? The Office cannot assume facts in support of the petition, so facts such as those requested above should be given even if they seem "obvious."

Papers must be signed by both inventors or a registered attorney/agent. Any renewed petition must be signed by both inventors or a registered attorney/agent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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THOMAS P. CHESTERS
1901 MARIGOLD LANE
HANOVER PARK, IL 60133

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MAY 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Beane et al. :
Application No. 10/407,106 :
Filed: April 5, 2003 :
For: Controllably Extendible Restraint Interconnections :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed December 3, 2004, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 5, 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 August 6, 2003. A Notice of Abandonment was mailed on August 26, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

A new petition fee of $55 is not necessary for the renewed petition. Therefore, the Office will schedule a refund of the $55 paid on December 3, 2004.

The Office of Initial Examination will be informed the application has revived so that it may continue to take steps to prepare the application for examination

Telephone inquiries may 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 J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605

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JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of

Antonio Battisti

Application No. 10/407,109

Filed: April 4, 2003

Attorney Docket No. 377/9-1799.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, 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 June 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on September 18, 2004.

The amendment filed December 20, 2004, is noted and made of record.

Deposit account 04-0838 was inadvertently charged twice for the petition fee. The amount of $750.00 will be refunded to the deposit account, accordingly.

The application is being forwarded to Technology Center 3700, GAU 3721 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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714 COLORADO AVENUE
BRIDGE PORT, CT 06605

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OFFICE OF PETITIONS

In re Application of

Antonio Battisti

Application No. 10/407,109

Filed: April 4, 2003

Attorney Docket No. 377/9-1799.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, 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 June 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on September 18, 2004.

The amendment filed December 20, 2004, is noted and made of record.

Deposit account 04-0838 was inadvertently charged twice for the petition fee. The amount of $750.00 will be refunded to the deposit account, accordingly.

The application is being forwarded to Technology Center 3700, GAU 3721 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Keijiro Ueki :
Application No. 10/407,110 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. 14699-012001

This is a decision on the petition, filed October 25, 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 26, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2622 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

cc: Fish & Richardson P.C.
Citigroup Center
153 East 53rd Street, 52nd Floor
New York, NY 10022-4611

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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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R. LEWIS GABLE
COWAN, LIEBOWITZ & LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-6799

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DEC 27 2006

OFFICE OF PETITIONS

In re Application of
Neil D. McLaughlin
Application No. 10/407,111
Filed: April 4, 2003
Attorney Docket No. 24739.002

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2006.

The request is APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided.

The request was signed by R. Lewis Gable, the sole attorney of record. As the request complies with the above provisions for withdrawal, the request is approved. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Neil D. McLaughlin at the address indicated below, which is the address provided by requester herein.

The issue fee has been paid In this application. Accordingly, this application will be referred to Publishing Division for appropriate action as the nature of the case requires.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Neil D. McLaughlin
709 Creekwater Terrace, Apt. 107
Lake Mary, FL 32746

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Mail Date: AUG 2 0 2004

PAPER NO.

In re Application of Cunningham, T. et al. Serial No.: 10/407,119 Filed: April 3, 2003 For: FOOD WINDING APPARATUS AND METHOD	: : : : : :	DECISION ON PETITION UNDER 708.02,VIII

This is in response to the petition filed June 20, 2003, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been found to be deficient for the following reasons: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that a pre-examination search was conducted, but there is no listing of the field of search. Additionally, Class 099, Subclasses 450.1, 450.2, 450.7, and 494 should have been searched.

Accordingly, the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco CA 94111-4067

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JHK LAW
P.O. BOX 1078
LA CANADA CA 91012-1078

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OFFICE OF PETITIONS

In re Application of
Park et al.
Application No. 10/407,136
Filed: April 7, 2003
Attorney Docket No. 13100-02USA

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment under 37 CFR 1.111; (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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on February 28,2 006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

'3 0 SEP 2008

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Alexandria, VA 22313-1450
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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON TX 75083

In re Application of	:	
DAVIES et al.	:	
Application No.: 10/407,149	:	
Filed: April 3, 2003	:	
Attorney Docket No.: U4EA-0005	:	DECISION ON PETITION
For: FILTERING DATA FLOWS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/GB00/03783, filed October 3, 2000, set forth in the amendment submitted concurrently with the petition under 37 CFR 1.78(a)(3).

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 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 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 petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Daniel Stemmer at 571-272-3301. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 2616 for appropriate action on the amendment filed December 31, 2007, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/GB00/03783, filed October 3, 2000.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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Paper No.

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Banner et al.	:	DECISION ON APPLICATION
Application No. 10/407,160	:	FOR
Filed: April 4, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. UF-T279D1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed October 26, 2005. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred ten (210) 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 two hundred eleven (211) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 10, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 0 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term adjustment

[1] PALM Records indicate that the Issue Fee payment was received on November 7, 2005.

be corrected to 210 days. Applicants assert that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 241 days, not 0 days. Further, applicants assert the reduction of 343 days associated with their delay in responding to the Office action mailed March 23, 2004 should be removed. Applicants assert that due to Office error, the March 23, 2004 Office action was mailed to an incorrect address and never received by applicants.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 0 days is incorrect. The Office mailed an Office action under section 132 on March 23, 2004, within fourteen months of the filing date of the application. However, the Notice was not mailed to the correspondence address of record (but to an attorney never of record). The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. Accordingly, a letter restarting the period for reply (and re-mailing the notice) was mailed on February 1, 2005.

Thus, the Office's delay should be calculating using the February 1, 2005. However, the period of delay is 242 days (not 241), counting the number of days in the period beginning on the day after the date that is fourteen months after the actual filing date of the application, June 5, 2004, and ending on the date of mailing of an action under 35 U.S.C. 132, February 1, 2005.

Under the circumstances, applicants are correct that they failed to engage in reasonable efforts within the meaning of § 1.704(b), but by 31 days, not 343 days. Their response filed June 1, 2005, was received in excess of three months after the mailing of the Office action as re-mailed on February 1, 2005, but only by 31 days. Accordingly, a period of reduction of 31 days (not 343 days) should have been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 211 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614

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MAR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,066,173	:	NOTICE
Issue Date: June 27, 2006	:	
Application No. 10/407,160	:	
Filed: April 4, 2003	:	
Attorney Docket No. UF-T279D1	:	

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because a proper itemization has not been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The deficiency payment submitted January 12, 2010, is acknowledged, however, does not include a proper itemization of the three and one half year maintenance fee, as indicated above.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Lawson & Persson, P.C.
67 Water street
Laconia, NH 03246

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OFFICE OF PETITIONS

In re Application of

Waner, et al. :

Application No. 10/407,170

: DECISION ON PETITION

Filed: April 4, 2003

:

Attorney Docket No. 8793-46203a

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2005, which set a shortened statutory period for reply of three (3) months 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 July 30, 2005. A Notice of Abandonment was mailed on December 5, 2005

The amendment filed December 8, 2006, is noted.

The application is being forwarded to Technology Center 3700, GAU 3737 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Muchiu CHANG
N. 56, Alley, 123 Lane
Gao-Ping Section
Chung-Feng Road
Long-Tan Tao Yuan TW Taiwan

MAILED
JAN - 5 2006
Technology Center 2100

In re Application of:
Muchiu CHANG
Application No. 10/407,174
Filed: April 07, 2003
For: INTEGRATED VIRTUAL PRODUCT OR SERVICE VALIDATION AND VERIFICATION SYSTEM AND MEHTOD

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to accompany an appropriate extension of time fee as required by 37 CFR § 1.136 when a reply was filed on 30 September 2004. A Notice of Abandonment was mailed on 11 January 2005.

A review of the file record indicates that the payment of two-months extension of time was received on 01 October 2004, but did not get to process until 22 February 2005. The Office regrets any inconvenience caused by this error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to Examiner Stevens Thomas for appropriate action.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Bart Feldman et al	:	
Application No. 10/407,201	:	ON PETITION
Filed: April 7, 2003	:	
Attorney Docket No. 021756-038700US	:	

This is a decision on the petition, filed January 25, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Demantra Ltd. and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Demantra Ltd.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Demantra Ltd. has been recorded. Therefore, upon submission of the required certificate of correction, it would be

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Demantra Ltd. was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth Demantra Ltd., as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

The $100 Certificate of Correction fee was received on January 25, 2010.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Bart Feldman	: DECISION ON REQUEST FOR
Patent Number	: 7664683	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/407,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1377** 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of

BALL, Jackson L.
Application No. 10/407,215
Filed: April 7, 2003
Attorney Docket No. **4334-2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 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 Chris Comuntzis on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Jackson L. Ball at the address indicated below.

The application became abandoned for failure to timely respond to the office action mailed November 2, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACKSON L. BALL**
2341 HURST DRIVE
ATLANTA, GA 30305

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James C. Wray
Suite 300
1493 Chain Bridge Road
McLean,VA 22101

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OFFICE OF PETITIONS

In re Application of	:	
Hank C.K. Wuh, et al.	:	
Application No. 10/407,221	:	NOTICE
Filed: April 7, 2002	:	
Attorney Docket No. DAILY WELLNESS		

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 referred to Technology Center 1654.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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TORONTO, ON M5H 3Y2 CA
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
PONIATOWSKI, Paul	:	
Application No. 10/407,222	:	DECISION ON PETITION
Filed: April 7, 2003	:	TO WITHDRAW
Attorney Docket No. 16017-5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 7, 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 Bhupinder Randawa on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Paul Poniatowski at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

CC: PAUL PONIATOWSKI
570 LOCO ROAD
PORT MOODY, BC V3H 2W2
CANADA

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TAIPEI 235
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OFFICE OF PETITIONS

In re Application of	:
Chen, et al.	: DECISION GRANTING PETITION
Application No. 10/407,228	: AND WITHDRAWING THE
Filed: April 7, 2003	: HOLDING OF ABANDONMENT
Title: Intelligent Switching Gateway	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 22, 2005. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed July 2, 2004. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on October 3, 2004. A Notice of Abandonment was mailed on March 9, 2005.

Petitioner states that he did not timely receive the Notice to File Missing Parts. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action 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] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has submitted a satisfactory docket record showing incoming mail for the relevant period, stated that the Office action was not received, and attested to the fact that he searched his file jacket and docked records.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 2182 for re-mailing of the Office action mailed July 2, 2004, 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

---

[1] See MPEP 711.03(c)(II).

[2] Id.

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CHEVRON SERVICES COMPANY LAW
INTELLECTUAL PROPERTY GROUP
P.O. BOX 4368
HOUSTON TX 77210-4368

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OFFICE OF PETITIONS

In re Application of	:	
Mirkovic et al.	:	
Application No. 10/407,260	:	DECISION ON PETITION
Filed: April 4, 2003	:	
Attorney Docket No. X-0071	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed March 17, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 18, 2008. A Notice of Abandonment was mailed on September 26, 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 $1,540.00; and (3) a proper statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00, three- month extension of time fee submitted with the petition on September 22, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 1795 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Wise, et al.	:	
Application No. 10/407,291	:	DECISION ON PETITION
Filed: April 4, 2003	:	
Attorney Docket No. RA 5540 (1028.1140101)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 2, 2007 for failure to timely pay the issue, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 1, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed September 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CHICAGO, IL 60606

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeanine Thomas et al.	:	
Application No. 10/407,294	:	DECISION GRANTING
Filed: April 4, 2003	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 8328/85311-1	:	

This is in response to the petition filed July 8, 2004,[1] which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventors (Jeanine Thomas; Lisa Burger) have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The correspondence stated to have been filed in the Office on January 8, 2004 is not of record in the file. However, in view of the evidence submitted, the petition is accepted as having been filed on January 8, 2004 (certificate of mailing date of January 5, 2004). Additionally, Office finance records disclose that a five month extension of time was received on January 8, 2004. It is further noted that the June 9, 2004 Notice of Abandonment was rescinded in a Notice mailed on August 25, 2004.

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JEANINE C. THOMAS
5219 SOUTH MASON
CHICAGO, IL 60638

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of
Jeanine Thomas; Jamie Ann Bodden; Lisa Burger
Application No. 10/407,294
Filed: April 4, 2003
For: METHOD FOR TREATING PERVASIVE DEVELOPMENT DISORDER

Dear Ms. Thomas:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Welsh & Katz, LTD
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

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LISA BURGER
2186 APPALOOSA COURT EAST
WHEATON, IL 60187

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of
Jeanine Thomas; Jamie Ann Bodden; Lisa Burger
Application No. 10/407,294
Filed: April 4, 2003
For: METHOD FOR TREATING PERVASIVE DEVELOPMENT DISORDER

Dear Ms. Burger:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Kevin M. Jaeger	: DECISION ON REQUEST FOR
Patent Number	: 7651513	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/407,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1652** 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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DORSEY & WHITNEY LLP
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OFFICE OF PETITIONS

In re Application of	:	
Yuri A. Bobrov	:	
Application No. 10/407,304	:	DECISION ON PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A-70982/MSS/TJH	:	

This is a decision on the petition filed November 14, 2005, under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of the filing date of PCT application No. PCT/US01/31073, filed October 3, 2001. The petition is also being treated as a petition under 37 CFR 1.55(c) for the acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for the benefit of the filing date of foreign application No. RU/2000125053, filed October 5, 2000.

The petitions are **DISMISSED**.

The pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The PCT application upon which the instant nonprovisional application claims priority was filed on October 3, 2001, which is after November 29, 2000 and within 12 months of October 5, 2000, the filing date of the foreign application to which priority is now being claimed. On April 3, 2003, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country, and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

However, the 37 CFR 1.55(c) petition can not be granted until petitioner fulfills the requirements of 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. See MPEP 201.11. The amendment filed November 14, 2005 fails to state the relationship of Application No. PCT/US01/31073, filed October 3, 2001, to this application.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment or Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which states the relationship of the prior-filed application to this application are required.

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.

Address future correspondence in this matter as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand: Customer Service Window
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Randolph Building
401 Dulany St
Alexandria, VA 22314

By fax: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Dorsey & Whitney LLP
555 California Ave
Suite 1000
San Francisco, CA 94104-1513

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
555 CALIFORNIA ST
SUITE 1000
SAN FRANCISCO, CA 94104-1513

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OFFICE OF PETITIONS

In re Application of	:	
Yuri A. Bobrov	:	
Application No. 10/407,304	:	DECISION ON PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A-70982	:	

This is a decision on the renewed petition filed May 19, 2005, under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of the filing date of PCT application No. PCT/US01/31073, filed October 3, 2001. The petition is also being treated as a petition under 37 CFR 1.55(c) for the acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for the benefit of the filing date of foreign application No. RU/2000125053, filed October 5, 2000.

The petitions are **DISMISSED**.

The pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The PCT application upon which the instant nonprovisional application claims priority was filed on October 3, 2001, which is after November 29, 2000 and within 12 months of October 5, 2000, the filing date of the foreign application to which priority is now being claimed. On April 3, 2003, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country, and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

However, the 37 CFR 1.55(c) petition was dismissed in a decision mailed on February 9, 2006. The petition was dismissed because petitioner did not fulfill the requirements of 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. See MPEP 201.11. The amendment filed November 14, 2005 fails to state the relationship of Application No. PCT/US01/31073, filed October 3, 2001, to this application.

As set forth in the February 9, 2006 decision, petitioner was required to state the relationship of the prior-filed application to this application.

On renewed petition, petitioner has stated the relationship. However, the petition can not be granted because the amendment submitted on petition is not compliant for other reasons, as pointed out in the Notice of Non-Compliant Amendment mailed July 13, 2006. A courtesy copy of the Notice is enclosed.

Address future correspondence in this matter as follows:

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PO Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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401 Dulany St
Alexandria, VA 22314

By fax: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Frances Hicks
Petitions Examiner
Office of Petitions

Enc: Notice of Non-Compliant Amendment (2 pages)

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.
10/407,304	04/03/2003	Yuri A. Bobrov	A-70982/AJT/MDV	2287

7590 07/13/2006

Michael D. Van Loy
DORSEY & WHITNEY LLP
Suite 3400
4 Embarcadero Center
San Francisco, CA 94111

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/407304	Applicant(s)	
	Examiner	Art Unit	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on *19 May 2006* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
  - ☒ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other *Must show what is being deleted and added*.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:
Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Crystal Queen — Crystal Queen — 571-272-1041
Legal Instruments Examiner (LIE), if applicable — Telephone No.

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SAN FRANCISCO, CA 94104-1513

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OFFICE OF PETITIONS

In re Application of	:	
Yuri A. Bobrov	:	
Application No. 10/407,304	:	DECISION ON PETITION
Filed: April 3, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. A-70982	:	

This is a decision on the amendment filed December 4, 2006, and the renewed petition under 37 CFR 1.78(a)(3), filed June 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of the filing date of PCT application No. PCT/US01/31073, filed October 3, 2001. The petition is also being treated as a petition under 37 CFR 1.55(c) for the acceptance of an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for the benefit of the filing date of foreign application No. RU/2000125053.

The petitions are **GRANTED**.

The pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The PCT application upon which the instant nonprovisional application claims priority was filed on October 3, 2001, which is after November 29, 2000 and within 12 months of October 5, 2000, the filing date of the foreign application to which priority is now being claimed. On April 3, 2003, an executed oath/declaration was received which identified the foreign application for which priority is claimed by application number, country, and filing date. The required petition fee of $1,370 was received with the petition. Lastly, petitioner provided an adequate statement of unintentional delay.

However, the 37 CFR 1.55(c) petition was dismissed in a decision mailed on February 9, 2006. The petition was dismissed because petitioner did not fulfill the requirements of 37 CFR 1.78(a)(3). In particular, the amendment submitted with the petition did not properly identify the relationship to Application No. PCT/US01/31073. Applicant filed a request for reconsideration on May 19, 2006, which was again dismissed in a decision mailed on November 20, 2006. This time, the petition was dismissed because the amendment was not compliant, as pointed out in the Notice of Non-Compliant Amendment mailed July 13, 2006.

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 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 application has been included in an ADS; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed 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) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120, 119 and 365(c) and 37 CFR 1.78 and 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A draft corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The application is being forwarded to Group Art Unit 1794.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

Enc: draft Corrected Filing Receipt (1 page)

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/407,304	04/03/2003	1794	542	071150	22	2

CONFIRMATION NO. 2287

CORRECTED FILING RECEIPT

OC000000028591737

OC000000028591737

38834
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Applicant(s) .

Yuri A. Bobrov, Zelenograd, RUSSIAN FEDERATION;

Power of Attorney: The patent practitioners associated with Customer Number **38834**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US01/31073 10/03/2001

Foreign Applications

RUSSIAN FEDERATION 2000125053 10/05/2000

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
US10/407,304

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Optically anisotropic film and method for making

Preliminary Class

428

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OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN VA 22448-5110

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OFFICE OF PETITIONS

In re Application of	:	
Stanley E. Vandruff et al	:	
Application No. 10/407,309	:	DECISION ON PETITION
Filed: April 4, 2004	:	TO WITHDRAW
Attorney Docket No. 83870	:	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 April 2, 2007.

The request is **APPROVED** to the extent noted below.

A review of the file record indicates that, requestor, Scott R. Boalick, formerly of the firm of Fish & Richardson: (1) has never been given a power of attorney in this patent application; and there is no indication that he (or the firm of Fish & Richardson) (2) has been employed or otherwise engaged in the proceedings in this patent application. To the extent that Scott R. Boalick may have been employed or otherwise engaged in the proceedings in this application, the request is approved. Mr. Boalick may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b). A courtesy copy of this decision is being mailed to Mr. Boalick at the address of Fish & Richardson noted below.

The correspondence address of record remains unchanged.

A final Office action was mailed on May 9, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Fish & Richardson, P.C.
P. O. Box 1022
Minneapolis, MN 55440-1022

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P.O. Box 1450
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LAW, INTELLECTUAL PROPERTY GROUP
P.O. BOX 4368
HOUSTON, TX 77210-4368

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FEB 04 2009

OFFICE OF PETITIONS

In re Application of :
William S. **WHEAT, et al.** :
Application No. 10/407,316 :
Filed: April 4, 2003 :
Attorney Docket No. **X-0130** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 3, 2007 and re-submitted July 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 2, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is February 3, 2007.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Melissa Patangia appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent that particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2230 extension of time fee submitted with the petition on July 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be funded.

A review of the file record discloses that petitioner submitted the petition and RCE fees twice. The petition fee of $1540 and RCE fee of $810 submitted on July 23, 2008 will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1764 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

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VRBIA PATENT GROUP PLLC
DAVID B. DORT; RAYMOND J. HO
BOX 26219, CRYSTAL CITY STATION
ARLINGTON, VA 22215

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OCT 24 2006
OFFICE OF PETITIONS

In re Application of Scott Dresden Application No. 10/407,321 Attorney Docket No. 40809-8004.US01	: :: : :	DECISION ON PETITION TO MAKE SPECIAL 37 CFR 1.102(d)

This is a decision on the petition under 37 CFR 1.102(d), filed July 26, 2006, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. 708.02, Section I: Manufacture.

The petition is **DISMISSED**

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee or attorney/agent registered to practice before the Office alleging:

A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it does not indicate that facilities to manufacture the invention in quantity will be made available if a patent is granted. It is also noted that Applicant did not provide copies of all references indicated on IDS.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 3622 for action in its regular turn.

David A. Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of :
Scott Dresden :
Application Number: 10/407323 :
Filing Date: 04/04/2003 :
Attorney Docket Number: 40809-8002.US01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on December 19, 2007, for failure to timely respond to the non-final Office action mailed on September 18, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 2, 2008.

Receipt of the amendment filed on January 15, 2009 is acknowledged.

---

[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 Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to Technology Center Art Unit 3622 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DI 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. 11

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Cockrell, Dobbins, Manibusan, Simpson & Needels
Application No.: 10/407,336
Filed: April 4, 2003
Attorney Docket No.: 32011.42
For: SYSTEM AND METHOD FOR USING THIRD PARTY BILLING OF POINT OF SALE TRANSACTIONS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 8, 2003 (certificate of mailing date December 5, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Edward Manibusan, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the facts set forth in the reconsideration petition and accompanying exhibits establish that the inventor was mailed and received the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

EDWARD CAMACHO MANIBUSAN
6018 ELK VALLEY
SAN ANTONIO TX 78249

COPY MAILED

DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Cockrell, Dobbins, Manibusan, Simpson & Needels :
Application No.: 10/407,336 :
Filed: April 4, 2003 : LETTER
Attorney Docket No.: 32011.42 :
For: SYSTEM AND METHOD FOR USING :
THIRD PARTY BILLING OF POINT OF SALE :
TRANSACTIONS :

Dear Mr. Manibusan:

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: HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No. 8

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of
Cockrell, Dobbins, Manibusan, Simpson & Needels
Application No.: 10/407,336
Filed: April 4, 2003
Attorney Docket No.: 32011.42
For: SYSTEM AND METHOD FOR USING THIRD PARTY BILLING OF POINT OF SALE TRANSACTIONS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 5, 2003 (certificate of mailing date September 2, 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 April 4, 2003 without an executed oath or declaration. Accordingly, on June 2, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on September 5, 2003 (certificate of mailing date September 2, 2003), a petition for a one month extension of time and required fee, a declaration executed by 3 of 5 joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, were filed. Declarations of facts of Michael Simpson and Christina L. Gutierrez accompanied the petition. Ms. Gutierrez states that on April 10, 2003 non-signing inventor Dobbins stated that he would not sign anything without receiving a copy of the entire patent document and that on April 11, 2003, non-signing inventor Manibusan stated that he would come to his former employer's office to sign the declaration when he had an opportunity. Ms. Gutierrez states that Mr. Manibusan has made no attempt to contact his former employer regarding this matter. Mr. Simpson explains that on July 14, 2003, non-signing joint inventors Dobbins and Manibusan were mailed letters requesting that they visit their former employer to review the subject patent application and sign the declaration for the application. Mr. Dobbins did not claim his letter. Mr. Manibusan signed for his letter.

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 inventors have 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 inventors be mailed 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 statements of facts explicitly state that the inventors were not mailed a copy of the application as filed because the non-signing inventors are now working for competitors of their former employer.

The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the declaration. Mr. Dobbins clearly asked for a copy of the application and stated that he would not sign anything without a chance to review the application.. It is noted that an inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access See MPEP 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Asking a former employee to review the application within a limited amount of time in stressful surroundings does not satisfy the requirement that the non-signers be provided with a complete copy of the application as filed.

The inventors must have the complete application in their possession in order to make an informed, non-pressured decision as to whether they join in its filing. When petitioners can show that Inventors Dobbins and Manibusan were mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, 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: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

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Patent and Trademark Office
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OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

4316-10010

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DAC FOR PATENTS

Louis T. Isaf,P.C.
P.O. Box 720601
Atlanta, GA 30358-2601

In re Application of
McClure, McNally, Marks and Strange
Application No. 08/315,902
Filed: September 30, 1994
For: PARTS WASHING SYSTEM

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47 (a)

Papers filed on September 13, 1995 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)" mailed August 31, 1995 included a Declaration signed by inventors McNally, Marks and Strange on behalf of themselves and on behalf of the non-signing inventor in compliance with 37 CFR 1.63. Papers filed on September 13, 1995 also included a petition under 37 CFR 1.313(b), requesting that an application filed by inventor McClure be withdrawn from issue. That petition will be placed in the appropriate file and will be acted upon by the Office of Petitions.

On November 21, 1995, applicant submitted a preliminary amendment and a petition under 37 CFR 1.48(b), requesting that inventor Strange be deleted as a joint inventor. The preliminary amendment will be entered in due course and the petition under 37 CFR 1.48(b) will be acted upon by the examiner.

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 and Application Branch is authorized to

(1) accept this application under Rule 1.47(a);

(2) process the application with the inventors being McClure, McNally, Marks and Strange, using the Declaration filed on September 13, 1995; and

(3) mail a filing receipt with a filing date of September 30, 1994.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to non-signing inventor McClure at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Magdalen Y.C. Greenlief
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
NAEGELI, et al.	:	
Application No. 10/407,345	:	DECISION ON PETITION
Filed: April 3, 2003	:	TO WITHDRAW
Attorney Docket No. **CISCP070C1/7434**	:	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 13, 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 James E. Austin on behalf of all attorneys of record. Haruo Yawata has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 13, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Steve **ROBY**

Confirmation No.: **9073**

Appln. No.: **10/407,359**

Group Art Unit: **3748**

Filed: **April 4, 2003**

Examiner: **Trieu, Thai Ba**

Patent No. **US 6,874,998 B2**

Date of Patent: **April 5, 2005**

For: **TURBOCHARGER WITH REDUCED COKING**

Attorney Docket No.: **DKT02045**

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT PURSUANT TO 37 CFR 1.323

Mail Stop Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. Attached in duplicate is Form PTO-1050 with at least one copy being suitable for printing.

2. The exact page and line number where the error occurs in the application is:

3. (73) Assignee:

   BorgWagner Inc., Auburn Hills, MI (US)

U.S. Application No. 10/407,359
Patent No. US 6,874,998 B2
Date of Patent: April 5, 2005
REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
PURSUANT TO 37 CFR 1.323

ATTORNEY DOCKET NO.: DKT02045

should read as:

(73) Assignee:

BorgWarner Inc., Auburn Hills, MI (US)

Attached herewith is a copy of the first page of the Patent dated April 5, 2005.

Please disregard the Request for Certificate of Correction of Patent filed May 9, 2005.

Should there still be the fee of $100.00, it is to charged to Deposit Account No. 16-0877.

4. Please send the Certificate to:

Greg Dziegielewski
Borgwarner Inc.
3850 Hamlin Road
Auburn Hills, MI 48326-2872

Respectfully submitted,

PENDORF & CUTLIFF
5111 Memorial Highway
Tampa, Florida 33634-7356
(813) 886-6085

Stephan A. Pendorf
Registration No. 32,665

Date: **May 10, 2005**

U.S. Application No. 10/407,359
Patent No. US 6,874,998 B2
Date of Patent: April 5, 2005
REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
PURSUANT TO 37 CFR 1.323

ATTORNEY DOCKET NO.: DKT02045

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing REQUEST FOR CORRECTED FOR CERTIFICATE OF CORRECTION OF PATENT for U.S. Application No. 10/407,359 filed April 4, 2003, is being facsimile transmitted to the U.S. Patent and Trademark Office, facsimile number (703) 305-4372 or (703) 308-5065 on this May 10, 2005.

Stephan A. Pendorf

AUTHORIZATION TO CHARGE

The Commissioner is hereby authorized to charge any additional fees which may be required at any time during the prosecution of this application without specific authorization, except for the Issue Fee, or credit any overpayment, to Deposit Account No. 16-0877.

Stephan A. Pendorf

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,874,998 B2

DATED : April 5, 2005

INVENTOR(S) : Steve ROBY, Ashville, NC (US)

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(73) Assignee:
BorgWarner Inc., Auburn Hills, MI (US)

MAILING ADDRESS OF SENDER:

STEPHAN A. PENDORF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

PATENT NO. 6,874,998

No. of additional copies

1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,874,998 B2

DATED : April 5, 2005

INVENTOR(S) : Steve ROBY, Ashville, NC (US)

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(73) Assignee:
BorgWarner Inc., Auburn Hills, MI (US)

MAILING ADDRESS OF SENDER:

STEPHAN A. PENDORF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

PATENT NO. 6,874,998

No. of additional copies

1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

US006874998B2

(12) **United States Patent**
Roby

(10) **Patent No.: US 6,874,998 B2**
(45) **Date of Patent: Apr. 5, 2005**

(54) **TURBOCHARGER WITH REDUCED COKING**

(75) Inventor: Steve Roby, Ashville, NC (US)

(73) Assignee: BorgWagner Inc., Auburn Hills, MI (US)

(73) BorgWarner Inc., Auburn Hills, MI (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: 10/407,359

(22) Filed: Apr. 4, 2003

(65) Prior Publication Data

US 2004/0197212 A1 Oct. 7, 2004

(51) Int. Cl.[7] F04B 17/00

(52) U.S. Cl. 417/407; 60/602; 415/111; 415/112; 428/315.9

(58) Field of Search ..... 417/407; 60/602; 415/111–112, 175, 177–178; 508/107; 428/315.9, 694 TF; 524/225; 184/6.11, 6.16, 6.26, 55.1

(56) References Cited

U.S. PATENT DOCUMENTS

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6,261,678 B1 * 7/2001 von Fragstein et al. .. 428/315.9
2002/0047326 A1 * 4/2002 Higuchi 310/42
2002/0173431 A1 * 11/2002 Hirata 508/107

FOREIGN PATENT DOCUMENTS

DE 3235538 A1 * 3/1984 ..... 417/407

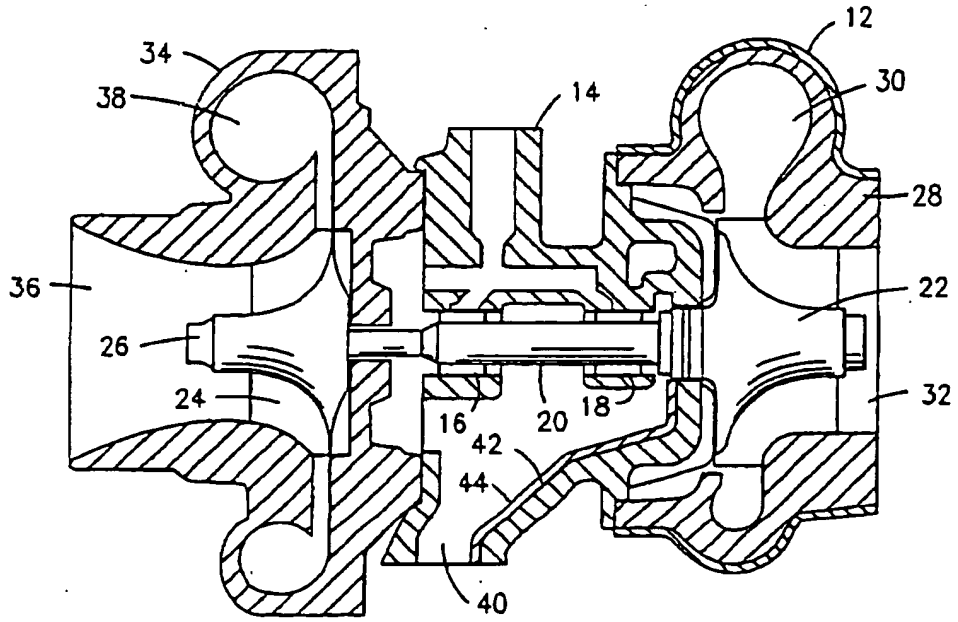
* cited by examiner

Primary Examiner—Thai-Ba Trieu
(74) *Attorney, Agent, or Firm*—Pendorf & Cutliff; Greg Dziegielewski

(57) **ABSTRACT**

A turbocharger including means for preventing or reducing coking, particularly following engine shutdown, without noticeably increasing weight or volume of the turbocharger. The turbocharger bearing housing (14) has defined therein a lubrication flow path for bearing lubricant and a lubricant drain gallery (40) below a shaft (20), and in accordance with the invention at least a portion of a wall (42) of the lubricant drain gallery (40) is coated with an oil repellant and/or heat insulating coating (44).

16 Claims, 1 Drawing Sheet



Financial Market Report

Symbol: ERUG
Rating: 10 out of 10
Current Price: $0.30

Focusing on stocks that can give your portfolio a big boost.

Stock Symbol:	ERUG
Current Price:	$0.30

Recommendation: Very Strong Potential

Major Coverage Starting on ERUG

Breaking News Alert!

ERUG'S New Approach to Healthcare Could Revolutionize the Entire Industry!!!

Have you ever had to wait in the emergence room for five hours or even longer for a non-life threatening condition such as a sprained ankle? That is exactly the problem that millions of Americans face everyday when they find themselves having to see their doctor after the office has closed for the evening.

At **ER Urgent Care Centers (OTC: ERUG)** when your doctor is resting theirs are ready and waiting. And the best part is you will be seen in minutes instead of hours. Whether it's a child's fever, mom's sore throat, dad's sprained ankle, grandmas dizzy spell, or just some shots or tests that you can't get during the day. They are there to provide you with top-quality healthcare. And the best part is that your HMO or insurance covers their services.

With continued forms of advertising and a growing interest from doctors who want to help expand the current operations and start new centers **ERUG could be a windfall for the savvy investor who takes advantage now!!!**

Trading at only $0.30, Potential Profits of 3-4-500% is possible that means that a $5000 investment in **ERUG** could mean a profit of nearly $20,000. **Don't miss the stock play that others surely won't!**

Why to Look Closer at ERUG?

ER Urgent Care Centers of Miami Beach, Florida have pioneered a new dimension of health care services for the underserved markets in after-hours complete health care, resulting in a whole new world of business opportunities for the healthcare sector. ER Urgent Care Centers open during the hours that most physicians' offices are closed, provide timely convenient and cost-effective advantages for its patients in a warm and welcome medical office setting.

Why do we at FMR believe now is the time to check out ER Urgent Care Centers? Simple the ability for **ERUG** to expand its operations throughout the country seems enormous.

Over the next two years ER Urgent Care Centers plans to continue its growth, building several more convenient locations to service more communities throughout the United States.

For more information on ERUG visit their web site at www.erucc.net

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Paper No. None

Frank A. Smith
GE Plastics
One Plastics Avenue
Pittsfield MA 01201

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OFFICE OF PETITIONS

In re Application of
James L. Derudder et al.
Application No. 10/407,362
Filed: April 4, 2003
Attorney Docket No.: 08CL7168-11
Title: IMPACT MODIFIED CARBONATE POLYMER COMPOSITION HAVING IMPROVED RESISTANCE TO DEGRADATION AND IMPROVED THERMAL STABILITY

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed June 7, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 30, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 30, 2003. A Notice of Abandonment was mailed June 21, 2004.

With the instant petition, 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 the submission of the petition fee and has made the proper statement of unintentional delay.

---

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.

It is noted that a terminal disclaimer was submitted on December 19, 2003. Although this terminal disclaimer was the proper reply, the response was incomplete, in that it appears that the submission of December 19, 2003 consisted solely of the terminal disclaimer, without any accompanying documentation indicating that it was supplied in response to the non-final office action.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for processing of the terminal disclaimer previously submitted on December 19, 2003.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Mary Jane FLAMENT-GARCIA et al. :
Application No. 10/407,364 : ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. 6285.US.C3 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 11, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 12, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and terminal disclaimer; (2) the petition fee of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 11, 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.

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 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 1616 for appropriate action on the concurrently filed amendment and terminal disclaimer.

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60662-2511

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

EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
PO BOX 900
ANNANDALE NJ 08801-0900

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NOV 02 2004

OFFICE OF PETITIONS

In re Application of :
Giordano, et al. :
Application No. 10/407,367 : DECISION ON PETITION
Filed: April 4, 2003 :
Attorney Docket No. P2002J047-US2 :

This is a decision on the paper titled "Petition/Response Regarding Notice of Omitted Item(s)", filed November 25, 2003, requesting that Figure 14b of the drawings be incorporated by reference.

The petition is **DISMISSED AS INAPPROPRIATE**.

The application was filed on April 4, 2003. However, on October 2, 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 April 4, 2003, and informing applicants that the drawing of Figure 14b described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner has not sought to establish that Figure 14b was actually deposited with the filing of the application papers on April 4, 2003. Rather, petitioner has requested that Figure 14b be incorporated into the application based upon the incorporation by reference statement contained in the specification.

MPEP § 201.06(c) 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 added).

Obviously, in view of the incorporation by reference of parent application no. 10/083,249, the drawing of Figure 14b is not new matter if it was a part of the disclosure of that application.

Applicants should submit an amendment seeking entry of Figure 14b prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

The petition fee of $130 has been charged to Deposit Account No. 50-0206, as authorized.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and change of correspondence address must be submitted. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 4, 2003, including an indication in Office records that 22 figures of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703-305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Thomas J. Scott, Jr.
Hunton & Williams
1900 K Street, N.W.
Washington, D.C. 20006

#5

OIPE JC174
NOV 2 5 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:		)	
Joseph A. GIORDANO et al.		)	Examiner: *not available*
		)	
Serial Number	10/407,367	)	
		)	
Filing Date:	April 4, 2003	)	Group Art Unit: *not available*
		)	

Title: SYSTEM AND METHOD FOR PROCESSING FINANCIAL TRANSACTIONS

PETITION/RESPONSE REGARDING NOTICE OF OMITTED ITEM(S)

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
JAN 0 8 2004
OFFICE OF PETITIONS

Sir:

On April 4, 2003, applicants filed nonprovisional application serial number 10/407,367 (the "'367 Application") with the United States Patent and Trademark Office (the "Office"). On October 2, 2003, applicants received a Notice of Omitted Item(s) (the "Notice of Omitted Item") informing applicants that the nonprovisional application papers filed on April 4, 2003 appeared to omit Figure 14b, which was described in the specification. Applicants respectfully submit this Petition/Response in response to the Notice of Omitted Item and request that the Office acknowledge the '367 Application's inclusion of Figure 14b. If required, a fee of $130.00 covering the instant Petition/Response, and any other fees which may be required in connection with this submission, may be deducted from the undersigned's deposit account number 50-0206.

11/02/2004 AKELLEY 00000016 500206 10407367
01 FC:1460 130.00 DA

I. Background

Applicants' '367 Application is a continuation application in a chain of applications filed by applicants. The '367 Application claims the benefit of priority to the filing dates of U.S. Application Serial Nos. 09/505,721 (the "'721 Application") and 10/083,249 (the "'249 Application"), filed February 17, 2000 and February 27, 2002, respectively. The '367 Application also claims the benefit of priority of U.S. Provisional Application Serial No. 60/370,244 (the "'244 Provisional Application"), filed April 8, 2002. Further, the '367 Application expressly incorporated the '244 Provisional Application, the '721 Application, and the '249 Application by reference.

The second paragraph of applicants' '367 Application includes the relevant statement of incorporation by reference:

> **[0002]** This application claims benefit of priority of U.S. Provisional Application Serial No. 60/370,244, filed April 8, 2002, and U.S. Application Serial Nos. 09/505,721 and 10/083,249, filed February 17, 2000 and February 27, 2002, respectively. These applications are hereby incorporated by reference in their entirety.

II. The Alleged Omission of Figure 14b from the '367 Application

The Office has informed applicants that Figure 14b may have been omitted from papers submitted in the '367 Application. Applicants cannot determine with certainty whether or not the papers submitted in the '367 Application filing actually included a physical a copy of Figure 14b. However, notwithstanding this fact, applicants submit that a copy of Figure 14b was deposited in the Office with the '367 Application papers by virtue of the fact that the '367 Application incorporated by reference an earlier application which did deposit Figure 14b with the Office.

III. Applicants' Petition/Response to the Notice of Omitted Item

The Notice of Missing Item describes three options pursuant to which applicants could fashion a response to the Notice of Missing Item. Applicants' submit the instant Petition/Response pursuant to Option I outlined in the Notice of Omitted Item. Applicants contend that the allegedly omitted item Figure 14b was, in fact, deposited in the U.S. Patent and Trademark Office with applicants' April 4, 2003 filing because the '367 Application expressly incorporated by reference applicants' earlier-filed '249 Application, which included a copy of Figure 14b. The '249 Application, which was filed on February 27, 2002, was published by the Office on October 17, 2002 as Application Publication No. US 2002/0152123 A1.[1] The '249 Application undisputedly included a copy of Figure 14b, as the figure appears in the published version of the '249 Application. (A copy of Figure 14b appearing in US 2002/0152123 A1 is attached as Exhibit A.)

Applicants properly incorporated the '249 Application by reference by expressly including an identification of '249 Application's full application number and filing date and an express incorporation by reference statement (i.e., "These [previously recited] applications are hereby incorporated by reference in their entirety"). *See In re de Seversky*, 474 F.2d 671, 177 U.S.P.Q. 144 (C.C.P.A. 1973) (mere reference to another application is insufficient to incorporate the other application into a later-filed application for purposes of the disclosure requirement of 35 U.S.C. § 112); Manual of Patent Examining Procedure ("MPEP") § 608.01(p). The MPEP specifically describes the instant circumstances giving rise to the Office's issuance of the Notice of Omitted Item:

[1] The '249 Application is a continuation-in-part of the '721 Application, filed on February 17, 2000.

> In a continuation or divisional application, the safeguard (petition and fee under former 37 CFR 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 CFR 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

MPEP § 201.06(c).

As contemplated in § 210.06(c), applicants incorporated their earlier applications by reference as a safegaurd against the possible inadvertent omission of a portion of the earlier applications from the filing of the '367 Application. Applicants' statement of incorporation by reference appears in paragraph two of the specification of the '367 Application.

Applicants can rely on their incorporation by reference of the '249 Application such that Figure 14b from the '249 Application was submitted in applicants' '367 Application because "the specification and drawings of a continuation or divisional application are not limited to a reproduction or a 'true copy' of the prior application." § 201.06(c). Accordingly, applicants request that the Office acknowledge that Figure 14b was properly included with applicants' '367 Application filing by virtue of the incorporation by reference of the '249 Application.

Further, as the Office has acknowledged in the Notice of Omitted Item that applicants'

'367 Application is entitled to a filing date notwithstanding the incorporation by reference,[2] applicants request that the Office amend the '367 Application to include the enclosed copy of Figure 14b as submitted in the '249 Application. (A clean copy of Figure 14b, identical to the version submitted in the '249 Application, is attached as Exhibit B.) Applicants note that per MPEP § 201.06(c), applicants are not required to file a petition to request such an amendment. Additionally, to the extent this provision of MPEP § 201.06(c) obviates the need for applicants to file the instant "Petition," applicants respectfully request that the instant submission be considered a "Response" to the Office's Notice of Omitted Item and that applicants not be charged a $130.00 petition fee.

Respectfully submitted,

Thomas J. Scott, Jr.

Thomas J. Scott, Jr.
Reg. No. 27,836
Tel.: (202) 955-1685
Fax: (202) 778-2201

Date: November 25, 2003

HUNTON & WILLIAMS
1900 K Street, N.W.
Washington, DC 20006

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JAN 0 8 2004
OFFICE OF PETITIONS

[2] The Notice of Omitted Item indicates that "A filing date has been accorded to the above-identified nonprovisional application papers."

OIPE JC22
SEP 0 2 2003
PATENT & TRADEMARK OFFICE

PETITION MOOT
APPLICATION ALLOWED

HIEN H. PHAN
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2800

PATENT
WWW/HJP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sang Cheol Lee
Serial No. 10/407,373	Filing Date: April 4, 2003
Title of Application:	Chipset Cooling Device Of Video Graphic Adapter Card
Confirmation No. 1323	Group Art Unit: 2835
Examiner	

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTENTION: Group Director, Group 2835
(M.P.E.P. § 1002.02(C))

09/04/2003 DTESSEM1 00000087 10407373
01 FC:1460 130.00 OP

Petition to Make Special pursuant to M.P.E.P. § 708.02, II

Dear Sir:

1. Petition. Applicant hereby petitions to make the above referenced application, which has not received any examination by the Examiner, special. It has come to the Applicant's knowledge that there is an infringing device actually on the market.

2. Statement. Pursuant to Section 708.02 II of the Manual of Patent Examining Procedure, the undersigned attorneys hereby submit the following statement in support of the Petition to Make Special.

(A) There is an infringing device currently and actually on the market. The infringing device is a VGA cooler having a brand name of "GIANT II" produced by Thermaltake Technology Co. Ltd., which has a main office in Taipei, Taiwan and maintains offices or affiliate companies in the United States, Europe and Asia. As far as we know, Thermaltake Incorporation, located in Walnut, CA, is a U.S. distributor of the infringing device.

Mailing Certificate: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as *First Class Mail* in an envelope addressed to: Commissioner for Patents and Trademarks; Post Office Box 1450; Alexandria, VA 22313-1450.

August 28, 2003

Susan K. Drammeh

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080328

DATE : March 28, 2008

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7321642

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: Mohammad Ghayour **Art Unit** 2611

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

COPY MAILED

MAR 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Hyoung Soo Cho	:	
Application No. 10/407,424	:	DECISION GRANTING FILING
Filed: April 7, 2003	:	DATE OF APRIL 7, 2003
Attorney Docket No. 8733.222.10-US	:	

This is a decision on the petition filed July 25, 2003, under 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of April 7, 2003.

The petition is **granted**.

The application was deposited on April 7, 2003. However, on July 18, 2003, the Office of Initial Patent Examination Division mailed a "Notice of Omitted Items," stating that Figures 7A and 7B were omitted from the application on filing.

In response, on July 25, 2003, the instant petition and a copy of Figures 7A and 7B as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of six (6) sheets of drawings on April 7, 2003. A review of the application file indicates the presence of only five (5) sheets of drawings with the sixth sheet containing Figures 7A and 7B missing.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that the drawings (6 sheets) were in fact present on filing, the Notice mailed July 18, 2003 is vacated.

Since the drawings cannot be located in the Office, the copy of the drawings supplied on July 25, 2003 will be used for processing and examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for processing with a filing date of **April 7, 2003**, and for an indication that the drawings (6 sheets Figures 1-7B) were included on filing and for mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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APR 27 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Hyoung Soo Cho	:
Application No. 10/407,424	:
Filed: April 7, 2003	:
Attorney Docket No. 8733.222.10-US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of prior-filed nonprovisional Application No. 09/585,439, filed June 2, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed nonprovisional Application No. 09/585,439, filed June 2, 2000.

The instant pending nonprovisional application was filed on April 7, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed nonprovisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2). However, on the other hand, if the USPTO does not note the claim for priority to the nonprovisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of nonprovisional Application No. 09/585,439, in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,330 petition fee submitted 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 Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 2814 for processing the amendment filed January 8, 2004 and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional Application No. 09/585,439, filed on June 2, 2000.

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
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

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MAR 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Chandler R. Dawson et al	:
Application No. 10/407,425	:
Filed: April 7, 2003	:
Attorney Docket No. A8550	:

This is a decision on the petition, filed March 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1623 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

OCT 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Frank A. Ferraro :
Application No. 10/407,440 :
Filed: April 7, 2003 :
Attorney Docket No. 00845.017800.3 :

This is a decision on the petition, filed October 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 3724 for further processing of the request for continued examination under 37 CFR 1.114 filed October 8, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-04-09

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/407478 Patent No.: 6955009

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: The certificate of correction filed May 18, 2009 as modified by the supplemental certificate of correction filed on January 15, 2010 has been approved.

_____ **SPE** 3634 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AUG 13 2008

OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

In re Application of

RAITANO, Arthur B. et al.
Application No. 10/407,484
Filed: April 04, 2003
Attorney Docket No. **511582001624**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Leslie Overman on behalf of all attorneys of record who are associated with customer No. 77845. All attorneys/agents associated with the Customer Number 77845 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ARTHUR B. RAITANO**
12685 ROSE AVENUE
LOS ANGELES, CA 90066

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES 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

COPY MAILED
AUG 22 2003
OFFICE OF PETITIONS

CHARMASSON & BUCHACA
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO, CA 92108-3412

In re Application of
Zhou, et al.
Application No. 10/407,496
Filed: April 3, 2003
Attorney Docket No. 2128.1-3

DECISION GRANTING PETITION

This is a decision on the petition filed July 21, 2003, requesting that the above-identified application retain the presently accorded a filing date of April 3, 2003, with page 11 of the specification as part of the original disclosure.

On April 3, 2003, the above-identified application was filed. On July 8, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of April 3, 2003, however, page 11 of the specification appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on July 21, 2003, applicants filed the present petition and a duplicate copy of the application papers originally filed. Among the duplicate application papers filed, were 20 pages of the specification, one of which was page 11. Petitioner also filed a copy of an Office date-stamped postcard showing that, among other items, 20 pages of the specification were received on April 3, 2003.

Upon review of the record, page 11 of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited April 3, 2003, included page 11 of the specification which was subsequently misplaced by the Office. Therefore, the application, including page 11 of the specification, was complete on filing and entitled to the presently accorded filing date of April 3, 2003.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated. Therefore, no petition fee is necessary and the fee of $130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 3, 2003, using the 20 pages of specification filed April 3, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 8/21/03 | 2 S rial/Patent # 10/407,496

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	3	7/21/03	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Office error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Kenya McLaughlin TITLE: Petitions Atty.

SIGNATURE: Kenya A. McLaughlin PHONE: 305-0010

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 8/22/03

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 17 2004

CHARMASSON & BUCHACA & LEACH LLP
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO CA 92108-3412

In re Application of	:	
David F. Zhou et al	:	DECISION ON PETITON
Serial No.: 10/407,496	:	
Filed: April 13, 2003	:	
For: Specimen Collection and Application Apparatus	:	

This is in response to applicants' petition filed December 19, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

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 E. 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

John E. Kittle
Director
Technology Center 3700/2900

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)
6865022	2005-03-08	10407541	2003-04-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Timothy M. Barlow/	Date (YYYY-MM-DD)	2009-08-15
Name	Timothy M. Barlow	Registration Number	50018

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6865022
Issue Date: March 8,2005
Application No. 10407541
Filed: April 5,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 15,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 15,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091209

DATE : December 09, 2009

TO SPE OF : ART UNIT 1628

SUBJECT : Request for Certificate of Correction on Patent No.: 7,300,929

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:

/Brandon J. Fetterolf/
Primary Examiner AU 1642

UNITED STATES 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

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

COPY MAILED
NOV 25 2003
OFFICE OF PETITIONS

In re Application of	:
King, et al.	: DECISION ON PETITION
Application No. 10/407,557	:
Filed: April 4, 2003	:
Atty. Dkt. No.: 01558-0002US	:

This decision is in response to the petition filed under 37 CFR 1.10(c), filed September 29, 2003, to accord the above-identified application a filing date of April 4, 2003.

Petitioner alleges that the application was deposited in Express Mail service April 4, 2003. As supporting evidence, petitioner has provided a copy of a USPS "Track & Confirm" printout bearing tracking number EV360017899US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file) and an "ENROUTE" date of April 4, 2003.

In accordance with 37 CFR 1.10(c), any person filing correspondence via USPS Express Mail that was received by the Office and who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that: (1) the petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date; (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and (3) the petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition fails to satisfy requirement (3) set forth above. However, a search of the USPTO's USPS Express Mail Information Database indicates that a package bearing Express Mail label No. EV360017899US was accepted by the USPS on April 4, 2003

and delivered to the United States Patent and Trademark Office on April 7 2003.

In view of the above, the petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of April 4, 2003 is hereby **GRANTED**.

No fee is due in connection with this petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 4, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/13/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10407559 Patent No.: 7433337 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2618

UNITED STATES PATENT AND TRADEMARK OFFICE

10-16-06

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,031,056
Inventor(s) : Katja Peter, et.al.
Issued : April 18, 2006
Docket No. : RECP:110us

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

A certificate of correction will issue to vacate the certificate of correction issued 09-12-06.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

Michael L. Dunn
Simpson & Simpson
5555 Main Street
Williamsville, New York, 14221

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

7-24-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 6,907,732
Inventor(s) : Yoshihiro Masuda, et. al.
Issued : June 21, 2005
Title : MASTER CYLINDER DEVICE FOR BRAKE
Docket No. : ACO342

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Mark D. Alleman
806 S.W. Broadway, Suite 600
Portland, Oregon 97205

ej

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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ALLEMAN HALL MCCOY RUSSEL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PROTLAND, OR 97205-3335

COPY MAILED

OCT 0 6 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,907,732	:	
Application No. 10/407,581	:	
Filed: April 3, 2003	:	
Issued: June 21, 2005	:	
Attorney Docket No. ACO 342	:	

This is a decision on the petition filed May 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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)
6909359	2005-06-21	10407583	2003-04-04	47332

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jclew35935/	Date (YYYY-MM-DD)	2009-08-24
Name	Jeffrey C. Lew	Registration Number	35935

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6909359
Issue Date: June 21,2005
Application No. 10407583
Filed: April 4,2003
Attorney Docket No. 47332

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 24,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070827

DATE : August 27, 2007

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction on Patent No.: 6,966,427

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:

Gene Crawford

SPE: Gene Crawford Art Unit 3651

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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KYOCERA WIRELESS CORP.
ATTN: PATENT DEPARTMENT
PO BOX 928289
SAN DIEGO, CA 92192-8289

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Allen Tran	:
Application No. 10/407,606	: DECISION REFUSING STATUS
Filed: April 3, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. UTL 00307	:

This is in response to the petition under 37 CFR 1.47(b), filed December 8, 2003.

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(b)" 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).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (5) and (6) set forth above.

As to item (5), petitioner has failed to prove that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application (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 (company), 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.

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

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 Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KYOCERA WIRELESS CORP.
ATTN: PATENT DEPARTMENT
PO BOX 928289
SAN DIEGO, CA 92192-8289

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OFFICE OF PETITIONS

In re Application of	:
Allen Tran	:
Application No. 10/407,606	: DECISION NOTING JOINDER OF
Filed: April 4, 2003	: INVENTOR AND PETITION
For: WIRELESS TELEPHONE ANTENNA	: UNDER 37 CFR 1.47(B) MOOT
DIVERSITY SYSTEM	:

This is a decision on the request for reconsideration of petition under 37 CFR 1.47(b) filed April 26, 2004, response to a "Decision Refusing Status Under 37 CFR 1.47(b)," mailed March 9, 2004. Papers filed on December 8, 2003 included a Declaration signed by previously nonsigning inventor Allen Tran in compliance with 37 CFR 1.63.

The petition is granted.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application file does not have any rule 1.47(b) status and no such status. This application file need not be referred to this office for any further consideration under 37 CFR 1.47(b).

Inquiries related to this decision may be addressed to Wan Laymon at (703) 306-5685.

This application file is being referred to Technology Center AU 2821 for examination in due course.

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

Woodard, Emhardt, Moriarty, McNett and Henry LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis IN 46204-5137

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OFFICE OF PETITIONS

In re Application of	:	
Shidong Chen et al.	:	
Application No. 10/407,610	:	DECISION ON PETITION
Filed: April 4, 2003	:	UNDER 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
031075-28	:	
Title: TRANSPOSED STRUCTURE	:	
FOR A DECISION FEEDBACK	:	
EQUALIZER COMBINED WITH A	:	
TRELLIS DECODER	:	

This is a decision on the petition filed September 20, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

---

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 2, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[2]. Accordingly, the above-identified application became abandoned on August 3, 2007. A Notice of Abandonment was mailed on August 28, 2007.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in the present petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With the present petition, Petitioner has submitted the issue and publication fees, the petition fee, and a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the 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. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.

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2 See MPEP § 710.02(e).

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[3]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the after-final amendment that was received with the present petition can be processed. The Examiner will then notify the Office of Patent Publication of this decision, so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Patrick J. O'Shea
O'Shea, Getz & Kosakowski, P.C.
1500 Main Street, Suite 912
Springfield, MA 01115

---

3 See 37 CFR 10.18(b); cf. 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).

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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101 INNOVATION DR
SAN JOSE CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Starr, Gregory	:	
Application No. 10/407,632	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. A875	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 14, 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 June 15, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on December 16, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
SUITE 3700
111 MONUMENT CIRCLE
INDIANAPOLIS, IN 46204-5137

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:
Douglas et al.	:
Application No. 10/407,635	: DECISION GRANTING PETITION
Filed: April 4, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 7404-504 RDID-01130C(3)-U	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on April 4, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

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)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1753 for appropriate action on the amendment submitted April 15, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HERCULES PLAZA
1313 N. MARKET STREET
WILMINGTON, DE 19894-0001

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OFFICE OF PETITIONS

In re Application of	:
Paquita Erazo-Majewicz et al	: DECISION ON PETITION
Application No. 10/407,660	: UNDER 37 CFR 1.137(b)
Filed: April 4, 2003	:
Attorney Docket No. 10069C	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 16, 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 December 27, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed September 27, 2005.

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 issue and publication fees are 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Andrew M. Prohel et al.	:	
Application No. 10/407,675	:	DECISION ON PETITION
Filed: April 4, 2003	:	UNDER 37 C.F.R. §1.181
Attorney Docket No. 80398P552	:	
Title: MANAGING AND SHARING	:	
IDENTITIES ON A NETWORK	:	

This is a decision on the petition filed on December 18, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 19, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 20, 2006. A notice of abandonment was mailed on October 17, 2006.

It is noted that December 17, 2006 fell on a Sunday.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that she has asserted that the Office communication was not received, that she has searched both the file jacket and the docket record, and she has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met her burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the communication of January 19, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 See MPEP 711.03(c).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for her further action(s).

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OCT - 7 2004

In re Application of	:
Catherine B. Lamberti *et al*	: DECISION ON PETITION
Application No. 10/407,691	:
Filed: April 4, 2003	:
For: Ball Return Game	:

This is a decision on the petition filed by facsimile transmission on September 14, 2004. Although styled as a "Petition to Revive", the petition is being considered pursuant to 37 CFR 1.181 as a petition to withdraw the holding of abandonment for failure to reply to the Office letter dated February 2, 2004, and no fee is required.

The petition is dismissed.

Petitioners allege that this application is not abandoned because petitioners did not receive the Office letter in question. However, petitioners have not made a showing as discussed at MPEP § 711.03(c) in support of their allegation. The required showing was originally established in the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Absent a showing in compliance with the Notice, the holding of abandonment will not be withdrawn.

Petitioner may file a renewed petition, without fee. The renewed petition should be directed to Technology Center 3700 at the address in the letterhead above. The renewed petition must be filed within two months of the date of this decision, or it will not received consideration on the merits. See 37 CFR 1.181(f).

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Jack C. Munro, Agent of Record
28720 Roadside Drive
Suite 225
Agoura Hills, CA 91301

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Jack C. Munro, Agent of Record
Suite 225
28720 Roadside Drive
Agoura Hills, CA 91301

Paper No. 7

In re Application of
LAMBERTI ET AL.
Appl No.: 10/407,691
Filed: April 04, 2003
For: BALL RETURN GAME

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed September 7, 2004. The renewed petition received October 21, 2004 requests the withdrawing of the holding of abandonment pursuant to 37 CFR 1.181 based on non-receipt of the office action. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed September 7, 2004 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to remail the office action. The statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied office action.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACK C MUNRO AGENT OF RECORD
28720 ROADSIDE DR
SUITE 225
AGOURA HILLS CA 91301

COPY MAILED
AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Lamberti, et al	:	
Application No. 10/407,691	:	ON PETITION
Filed: April 4, 2003	:	
Title: Ball Return Game	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed April 25, 2006.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on March 3, 2004. However, the US Patent and Trademark Office was unintentionally not notified of this filings within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $750 petition fee is acknowledged.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, indicating a projected publication date of November 30, 2006, is enclosed.

The application is being forwarded to Group Art Unit 3711 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/407,691	04/04/2003	Catherine B. Lamberti	

CONFIRMATION NO. 2863

Jack C. Munro, Agent of Record
Suite 225
28720 Roadside Drive
Agoura Hills, CA 91301

Date Mailed: 08/22/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/30/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/407,691	04/04/2003	Catherine B. Lamberti	

CONFIRMATION NO. 2863

Jack C. Munro, Agent of Record
Suite 225
28720 Roadside Drive
Agoura Hills, CA 91301

Date Mailed: 08/22/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

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The projected publication date is 11/30/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND, CA 94611-2802

Mail Date: 04/20/2010

Applicant	: Brian Edmond Connolly	: DECISION ON REQUEST FOR
Patent Number	: 7587287	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/407,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **532** 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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SYNAPTICS C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Bob Lee Mackey	:	
Application No. 10/407,696	:	LETTER REGARDING PTA
Filed: 4/03/2003	:	
Attorney Docket No.	:	
SYNA-20020620-01	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed on April 22, 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 nine hundred twelve (912) days.

Applicants filed the instant "LETTER REGARDING PATENT TERM ADJUSTMENT" on April 22, 2008.

A review of the record reveals that the determination of patent term adjustment was correct. The Office determined a patent term adjustment of nine hundred twelve (912) days based on an adjustment for PTO delay of five hundred fifty-eight (558) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and three hundred fifty-four (354) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 CFR 1.703(e) reduced by no (0) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

Applicant requests review of the patent term adjustment insomuch as the Board of Patent Appeals and Interferences (Board) Decision affirming in part the examiner's rejection and entering

its own new grounds of rejection constitutes a "successful appeal" as prescribed in MPEP 2720.

In particular, petitioner states

> In this instance, the Applicant's appeal was successful, at least in part, in that rejections of six claims were reversed by the Board. This gives it the status of "Affirmed in Part". However, in the instant appeal, Applicant notes that the BPAI subsequently entered its own new grounds of rejection for each of these six reversed rejected claims.

In this regard, it is noted at the outset that MPEP 2720 applies to applications filed between June 8, 1995 and May 28, 2000. The subject application was filed on April 3, 2003. Accordingly, MPEP 2730, which discusses the grounds for adjustment for applications filed on or after May 28, 2000, is the appropriate section.

MPEP 2730 states, in pertinent part:

> 37 CFR 1.702(c) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by an interference proceeding (35 U.S.C. 154(b)(1)(C)(i)). 37 CFR 1.702(d) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by the application being placed under a secrecy order under 35 U.S.C. 181 (35 U.S.C. 154(b)(1)(C)(ii)). 37 CFR 1.702(e) indicates that a patent is entitled to patent term adjustment if the issuance of the patent was delayed by successful appellate review under 35 U.S.C. 134, 141, or 145 (35 U.S.C. 154(b)(1)(C)(iii)).
>
> 37 CFR 1.702(e) states that 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability.

With regard to the affirmance-in-part, it is noted that 37 CFR 41.50 states that the Board, in its decision, may affirm or reverse the decision of the examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim, except as to any ground specifically reversed.

As the examiner's decision was affirmed-in-part, there was at least one ground of rejection which was reversed. In view of the reversal of at least one ground of rejection, the decision is considered as a "decision in the review reversing an adverse determination of patentability."

With regard to the new grounds of rejection, a response to an Official Gazette comment stated: Apart from reviewing the examiner's adverse decision on patentability, the Board may also make a new grounds of rejection. Response to Comment No. 53, 69 Fed. Reg. 49960, 49977 (August 12, 2004). Accordingly, entry of a new grounds of rejection by the BPAI is not a review of, but rather an action apart from reviewing, the examiner's adverse decision on patentability.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **nine hundred twelve (912) days** (912 days of PTO delay, reduced by 0 days of Applicant delay).

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

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Paper No. 5

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Gordon Pacey
Application No. 10/407,705
Filed: April 4, 2003
Title of Invention: BURIED LINE LOCATOR WITH INTEGRAL POSITION SENSING

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to a petition under 37 CFR 1.47(b), filed October 28, 2003, to allow 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, to make application on behalf of and as agent for all inventors. The petition is properly treated under 37 CFR 1.47(b).

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(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 April 3, 2003, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on May 30, 2003, requiring, *inter alia*, a

properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition and Declaration and Power of Attorney. The Declaration and Power of Attorney is executed by the Chief Executive Officer of Metrotech Corp. The Petition avers that "the Assignee files this petition…." *Petition* at p.2. However, no assignment documents have been located in the application file. The petition further avers that an employment agreement between the inventor and Metrotech Corp. is attached; however, no employment agreement has been located among the application papers.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (5) and (6) as set forth above.

As to item (5), applicant failed to show or provide proof that Metrotech Corp. has sufficient proprietary interest in the subject matter to justify the filing of the application (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 (company), 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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OFFICE OF PETITIONS

In re Application of:	:	
Gordon Pacey	:	
Application No. 10/407,705	:	DECISION GRANTING
Filed: April 4, 2003	:	STATUS UNDER
Title of Invention: BURIED LINE	:	37 CFR 1.47(b)
LOCATOR WITH INTEGRAL POSITION	:	
SENSING	:	

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(b), filed January 22, 2004, to allow 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, to make application on behalf of and as agent for all inventors. A one (1) month extenstion of time is hereby granted.

The petition is **granted**.

The above-identified 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.

Petitioner has shown that the non-signing inventor, Gordon Pacey, refuse to join in the application.

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.

Receipt of drawings, filed October 28, 2003, is hereby noted.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

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GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of:	:	
Gordon Pacey	:	
Application No. 10/407,705	:	DECISION GRANTING
Filed: April 4, 2003	:	STATUS UNDER
Title of Invention: BURIED LINE	:	37 CFR 1.47(b)
LOCATOR WITH INTEGRAL POSITION	:	
SENSING	:	

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(b), filed January 22, 2004, to allow 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, to make application on behalf of and as agent for all inventors. A one (1) month extenstion of time is hereby granted.

The petition is **granted**.

The above-identified 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.

Petitioner has shown that the non-signing inventor, Gordon Pacey, refuse to join in the application.

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.

Receipt of drawings, filed October 28, 2003, is hereby noted.

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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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Gordon Pacey :
Application No. 10/407,705 : ON PETITION
Filed: April 3, 2003 :
Attorney Docket No. 9131-0002-00 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The above-identified nonprovisional application became the subject of an application filed in the PCT Office designating foreign countries on April 2, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Therefore, pursuant to the provisions of 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The Office has processed the request to rescind the previous nonpublication request. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of May 5, 2005, accompanies this decision on petition.

The matter is being referred to Technology Center Art Unit 2863.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Gordon Pacey :
Application No. 10/407,705 :
Filed: April 3, 2003 :
Attorney Docket No. 09131.0002 :

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed August 4, 2005 which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application became abandoned May 3, 2005 for failure to timely pay the issue fee. A Notice of Allowance was mailed January 31, 2005 thus closing prosecution in the application. Payment of the issue fee was due not later than May 2, 2005. No response having been filed, a Notice of Abandonment was mailed June 13, 2005.

Petitioners argue that on March 23, 2005, prior to payment of the issue fee, and therefore in lieu thereof, petitioners filed a Request for Continued Examination (RCE) under 37 CFR 1.114 and an Information Disclosure Statement (IDS). Although other identifiers were present on the RCE and IDS, both had the wrong application no. in the header. Submitted as proof is a copy of the RCE and IDS as well as a copy of the post card receipt date stamped March 23, 2005, by the USPTO.

While the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, petitioner is correct that other identifiable information was found to be on the papers filed as the response. As such, the papers were not previously matched with the correct application and thus it appeared that the response was not timely.

A review of the file reveals that the response filed March 23, 2005 has now been matched with the correct application file. The evidence submitted corroborates a timely submission of the RCE and IDS as the submission under 37 CFR 1.114, after prosecution in the application was closed.

Accordingly, the Notice of Abandonment mailed June 13, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2863 for processing of the RCE filed with an IDS on March 23, 2005.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/407,737	04/04/2003	Douglas R. Camp	1842A1	3028

7590 02/16/2005

PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh, PA 15272

EXAMINER
KEEHAN, CHRISTOPHER M

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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FEB 1 5 2005

In re Application of	:	
Douglas R. Camp	:	WITHDRAWAL
Serial No. 10/407,737	:	FROM ISSUE
Filed: April 4, 2003	:	UNDER 37 CFR 1.313(b)
For: ANTI-FOULING COATINGS CONTAINING	:	
SILICA-COATED COPPER	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to at Randy Gulakowski (571) 272-1302.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PPG Industries, Inc.
Intellectual Property Department
One PPG Place
Pittsburgh, PA 15272

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Paper No. 4

MAIL

MAR 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Lynn G. Foster
602 East 300 South
Salt Lake City UT 84102

In re Application of
NOBLE
Application No. 10/407,739
Filed: April 4, 2003
For:
EXTRA-EAR HEARING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on October 3, 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 met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw 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:
Alan Madsen
8600 Hidden Oaks Circle
Salt lake City, UT 84121

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRUCE A. JAGGER
Brooks Kushman P.C.
1000 Town Center
22nd Floor
Southfield, MI 48075

Mail Date: 04/21/2010

Applicant	: Tony J. Alba	: DECISION ON REQUEST FOR
Patent Number	: 7575262	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/407,755	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of	:	
ODA, et al.	:	
Application No. 10/407,756	:	DECISION ON PETITION
Filed: April 04, 2003	:	TO WITHDRAW
Attorney Docket No. 2043.107US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 14, 2004.

The request is **NOT APPROVED** 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 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to PatriciaVolpe at (571) 272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Rochelle J. Whelan et al :
Application No. 10/407,758 : DECISION ON PETITION
Filed: April 3, 2003 :
Attorney Docket No. 42P16277 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed February 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 31, 2006 (May 28, 2006 was a Sunday and May 29, 2006 was a Federal holiday). A Notice of Abandonment was mailed on September 27, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As stated above, this application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 28, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance for the reasons stated on the attached courtesy copy of the Examiner's Advisory Action, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The reply must be accompanied by a renewed petition under 37 CFR 1.137(b). No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Courtesy Copy of Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. *10/407,758*	Applicant(s) WHELAN ET AL.	
	Examiner Paul B. Yanchus	Art Unit 2116	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a)☐ will not be entered, or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Regarding claim 1, Nookala and Huang together disclose all limitations of claim 1. Nookala is relied on to disclose: using a first display driver coupled to a graphics accelerator [LCD CONTROLLER] operating in a normal mode to supply frame buffer data from an external memory [EXTERNAL MEMORY, Figure 2] to a display;copying the frame buffer data stored in the external memory to a memory [ON-CHIP MEMORY] embedded with the processor [CPU, Figure 2, column 3, lines 36-45 and column 4, lines 4-38]; powering down the external memory in a power savings mode [external memory is placed in self-refresh mode, column 4, lines 24-27]; and refreshing the display using the copied frame buffer data stored in the memory embedded with the processor [on-chip memory provides display data to the LCD controller, column 4, lines 24-53]. Huang is relied on to disclose a second low-power display driver for refreshing the display in a power saving mode [Figure 2 and column 3, lines 10-22]. The motivation to combine the references is to conserve power when supply power is limited and to provide high performance when supply power is not limited [Huang, column 1, lines 49-53 and column 2, lines 11-15]. Therefore, Nookala and Huange together disclose all limitaitons of claim 1..
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 2. NOTE: The new limitation "refreshinq the display usin,q a second display driver that receives the copied frame buffer data stored in the SRAM embedded with the processor." in claim 15 requires further consideration and a new search.

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KACVINSKY LLC
C/O INTELLEVATE
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MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Rochelle J. Whelan et al. :
Application No. 10/407,758 : ON PETITION
Filed: April, 3, 2003 :
Attorney Docket No. 1020.P16277 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed February 28, 2006 which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 29, 2006.

The petition decision mailed December 20, 2007 indicates the petition under 37 CFR 1.137(b) filed June 8, 2007 was dismissed as failing to provide a proper response to the final Office action. The proposed amendment included with the previous petition did not put the application in condition for allowance and thus was not a proper response.

The instant renewed petition includes a request for continued examination (RCE) which is a proper response to a final Office action.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 2116 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.

Chris Bottel

for David Bucci
Petitions Examiner
Office of Petitions

Cc: Lanny L. Parker
OC2-157 4500 S. Dobson Road
Chandler, AZ 85248

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SUITE 1000
DALLAS, TX 75252

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OFFICE OF PETITIONS

In re Application of	:	
Chung-Hu Ke et al	:	
Application No. 10/407,761	:	ON PETITION
Filed: April 3, 2003	:	
Attorney Docket No. TSMC2002-0952	:	

This is a decision on the petition, filed March 14, 2005, to correct the incorrectly spelled name of one of the named inventors.

The petition is **DISMISSED** as moot.

The declaration submitted with the original application listed the fifth-named inventor as "Chung-Hu Ge." The instant petition states that the name should have been "Chung-Hu Ke." Since the petition involves a name correction, rather than a name change. Therefore, the petition is dismissed as involving a moot issue.[1] A copy of the corrected filing receipt is enclosed.

No fee is required and none has been charged.

Telephone inquiries related to this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

---

[1] MPEP 605.04

#4
DW

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JAN 29 2004

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JAN 29 2004

OFFICE OF THE DIRECTOR
TC 3600

Robert W.J. Usher
1133 Broadway, #1515
New York, NY 10010

Paper No. 4

In re application of
Francis Von Muller
Application No. 10/407,767
Filed: April 3, 2003
For: LOCKING DEVICE FOR LEVER ACTION FIREARMS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 3, 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 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 driver's license from the applicant showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 1/20/04