UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 19 2005

Meyers Bigel Sibley and Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of
Mark James Long et al.
Application No. 10/416,949
Filed: May 15, 2003
For: LOAD CARRYING VEHICLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 13, 2005.

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 _____ 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 August 10, 2004 has been found in the application.

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.

RAR/dgd: 4/20/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

02 SEP 2003

LAW OFFICE OF
IRA S. DORMAN
330 ROBERTS STREET
SUITE 200
EAST HARTFORD, CT 06108

In re Application of GARY FRANCIS HUNTER Serial No.: 10/416,953 PCT No.: PCT/GB01/04171 Int. Filing Date: 19 September 2001 Priority Date: 21 September 2000 Attorney's Docket No.: HTR-1 For: CATHETER WITH HYDROPHILIC COATING COMPRISING AN ANTHRAQUINONE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 May 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of this Petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $450 has been paid. The required petition fee of $650 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **13 May 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Morio KUWANO et al.	:	
Application No. 10/416,963	:	ON PETITION
Filed: May 16, 2003	:	
Attorney Docket No. 056207.52421US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 18, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 18, 2005 is accepted as having been unintentionally delayed.

Furthermore, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three-month extension of time submitted with the petition on July 28, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to 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 3747 for appropriate action on the concurrently filed amendment.

Brian Hearn
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

HUNTSMAN LLC
LEGAL DEPARTMENT
7114 NORTH LAMAR BLVD.
AUSTIN TX 78752

COPY MAILED
MAR 2 3 2006
OFFICE OF PETITIONS

In re Application of
Yasuaki Sugano et al.
Application No. 10/416,978
Filed: May 15, 2003
Attorney Docket No. 752480-021

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 4, 2005, for failure to timely file a reply to the final Office action mailed May 3, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the Notice of Abandonment was mailed December 23, 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 $ 1500.00; and (3) an adequate statement of unintentional delay.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The Examiner has determined that the amendment filed with the present petition is acceptable.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The matter is being referred to Technology Center 1752for appropriate action on the amendment filed January 23, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
ROBERT HOLTHUS
10003 WOODLOCH FOREST DRIVE
THE WOODLANDS, TX 77380

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: David H. Kingsley	: DECISION ON REQUEST FOR
Patent Number	: 7662619	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/416,979	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1452** 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.

30 JUL 20[illegible]04

UNITED STATES PATENT and TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of	:	DECISION ON
Joachim Frey et al	:	
PCT No.: PCT/CA01/01600	:	
Application No: 10/416,981	:	PETITION UNDER
Int. Filing Date: 15 November 2001	:	
Priority Date: 15 November 2000	:	
Attorney's Docket No.: 4616-65917/RJP	:	37 CFR 1.47(a)
For: EXOENZYME TOXIN OF AEROMONAS	:	
SALMONICIDA, AND USES THEREFOR	:	

This is in response to the "PETITION UNDER 1.47" filed on 22 March 2004. The petition fee of 130.00 has been paid by check.

BACKGROUND

On 15 November 2001, applicants filed international application PCT/CA01/01600, which claimed priority to an earlier application filed 15 November 2000. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 23 May 2002. A DEMAND was filed on 06 November 2002 prior to the expiration of 19 months from the priority date electing the United States. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 15 May 2003.

On 15 May 2003, applicant filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed declaration or oath was submitted at such time.

On 20 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b) in that if " is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the last name of the 4th inventor differs from that which is on the published page of the international application" The notification further stated that all items must be submitted within two months from its 20 August 2003 date of mailing or by 32 months from the priority date for the application in order to avoid abandonment of the national stage application.

BEST AVAILABLE COPY

DISCUSSION

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be

made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirement (1) of 37 CFR 1.47(a) but not requirements (2) - (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), in this case, Mr. William Kay has not sufficiently demonstrated that a copy of the application papers were presented to the non-signing legal representative of the deceased inventor, Julian C. Thornton. Petitioner has not stated that the application papers (specification, including claims, drawings, and oath or declaration) were sent to the Mr. Thornton's legal representative and that the legal representative refused to sign the required papers as stipulated under MPEP 409.03(d).

In addition no documentary evidence to support this assertion has been provided such as the postal receipt signed by the legal representative and the cover letter sent to the legal representative with the application papers.

Accordingly, the steps enumerated by Mr. Kay are not sufficient to establish that Mr. Thornton's legal representative has refused to sign the declaration. Mr. Kay has not set out how and with whom contact has been attempted to be made.

Regarding requirement (3), although petitioner has provided a statement of the last known address of the missing inventor, petitioner has not provided the last known address of the legal representative.

Regarding requirement (4) because the inventor Julian C. Thornton is deceased, the legal representative for the deceased inventor must follow the requirements set forth under 37 C.F.R. §1.497(b)(2) which indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventors citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall <u>also</u> state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, the name, residence and citizenship of the legal representative have not been provided as required under 37 C.F.R. §1.497(b)(2) in the declaration.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT and TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of Joachim Frey et al PCT No.: PCT/CA01/01600 Application No: 10/416,981 Int. Filing Date: 15 November 2001 Priority Date: 15 November 2000 Attorney's Docket No.: 4616-65917/RJP For: EXOENZYME TOXIN OF AEROMONAS SALMONICIDA, AND USES THEREFOR	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's " RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 05 October 2004 in response to a decision by this Office dated 30 July 2004.

BACKGROUND

The decision by this Office dated 30 July 2004 indicated that the record did not support the premise that petitioner had made a bona fide attempt to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing legal representative, Tracy A. Thornton and that after presentation of the complete copy she had refused to sign the Declaration.

In addition, the decision stated that the petition did not comply with 37 CFR §1.497(b)(2) because the declaration was incomplete because an acceptable declaration under 37 CFR §1.497(b)(2) states the citizenship, residence, mailing address of the legal representative, Tracy A. Thornton.

On 05 October 2004, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by Tracy A. Thornton complying with 37 CFR §1.497(b)(2).

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Tracy A. Thornton, the personal representative of deceased inventor Julian C. Thornton, executed a declaration in accord with 37 CFR 1.42.

The newly executed declaration signed by Tracy A. Thornton as Legal Representative of the deceased inventor (Julian C. Thornton) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative. The declaration, also, has the signature of the other joint-inventors.

Accordingly, the declaration submitted on 05 October 2004 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **05 October 2004**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

for Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6915805
Issue Date: July 12,2005
Application No. 10417001
Filed: April 16,2003
Attorney Docket No. 03 PAT 187

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

This is a decision on the electronic petition, filed March 15,2010 ,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 March 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6915805	2005-07-12	10417001	2003-04-16	2003 PAT 187

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/c.w.alworth/	Date (YYYY-MM-DD)	2010-03-13
Name	Charles W. Alworth	Registration Number	33824

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

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.
10/417,008	04/14/2003	Kuo-Shu Lin	PUSA030409	6213

7590 05/06/2004

Kuo-Shu Lin
58, MA YUAN WEST ST.
TAICHUNG,
TAIWAN

EXAMINER
ROJAS, BERNARD

ART UNIT	PAPER NUMBER
2832	

DATE MAILED: 05/06/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10417008			

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).

☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due.
The issue fee by 37 CFR 1.18 is $_____ . The publication fee, if required, by 37 CFR 1.18(d) is $_____.

☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES 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.

CHARLES E. BAXLEY
HART, BAXLEY, DANIELS & HOLTON
SUITE 309
90 JOHN STREET
NEW YORK, NY 10038

COPY MAILED

AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Kuo-Shu Lin :
Application No. 10/417,008 : DECISION ON PETITION
Filed: April 14, 2003 :
Attorney Docket No. PUSA030409 :

This is a decision on the petition filed May 27, 2004, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely pay both the required issue fee and the publication fee within the statutory period of three (3) months from the mailing date, December 24, 2003, of the Notice of Allowance and Fee Due. No extensions of time are permitted for transmitting these fees. Accordingly, the above-identified application became abandoned on March 25, 2004. A Notice of Abandonment was mailed on May 6, 2004.

With the instant petition (and petition fee), petitioner paid the issue fee and the publication fee and made the required statement of unintentional delay. There was no concurrent requirement to submit new drawings; the drawings filed April 14, 2003 were accepted by the examiner. Petitioner has met the requirements for a grantable petition under § 1.137(b).

Receipt of the PTOL-85B is acknowledged and made of record. The power of attorney and change of address are also acknowledged and made of record.

The Publishing Division has been advised of this decision reviving the application. The application has, thereby, been forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson

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

O'KEEFE, EGAN, PETERMAN & ENDERS LLP
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN TX 78746

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Shepard, et al.
Application No. 10/417,026
Filed: 04/15/2003
For: SYSTEM AND METHOD FOR AUTOMATED CASTING OF INFRARED GLASS OPTICAL COMPONENTS
Attorney Docket No: 019469.0239 (UMIC: 003)
Pub. No.: US 2003/0206122 A1
Pub. Date: October 21, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on October 17, 2006 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as page 31 of the application as filed has been omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on October 17, 2006, was not timely filed under 37 CFR 1.221(b).

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

[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

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

CHAPMAN AND CUTLER
111 WEST MONROE STREET
CHICAGO IL 60603

COPY MAILED
JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of
Oswald et al.
Application No. 10/417,030
Filed: April 16, 2003
Attorney Docket No. 1714526

DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative, the petition under 37 CFR 1.137(b), filed on March 29, 2006, to revive the above-identified application.

Petition Under 37 CFR 1.137(a)

The application became abandoned on July 17, 2005, for failure to file a proper response to the final Office action mailed on March 16, 2005, which set a three (3) month shortened statutory period for reply. On Monday, July 18, 2005, petitioner submitted an amendment in response to the final Office action and a request for an extension of time for response within the first month. However, the examiner found that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on January 30, 2006. On March 20, 2006, the Office mailed a Notice of Abandonment.

In the petition, petitioner asserted that he filed a timely response to the final Office action on Monday, July 18, 2005, with a request for an extension of time for response within the first month. Petitioner stated the USPTO mailed the Advisory Action after the six-month statutory period for reply to the final Office action. Petitioner averred that due to the late issuance of the Advisory Action, petitioner did not have the opportunity to respond in a timely manner to the Examiner's determination that the amendment raised a new issue requiring further consideration and/or search.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the

issue fee or any outstanding balance. 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(l);

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

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding

---

[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).

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

Office action, but through the intervention of unforeseen circumstances, such as failure of mail, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[5] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the file record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is regrettable that the Office did not mail an Advisory Action until after the six month statutory period ran; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[6] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the expiration of the time period for reply to the final Office action and not because of any delay in the mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office.

Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Accordingly, the petition under 37 CFR 1.137(a) is **dismissed**.

Petition Under 37 CFR 1.137(b)

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

---

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

[5] See 37 CFR 1.116.

[6] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

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 a Request for Continued Examination and a submission and authorized payment of the petition fee.

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 petition varies from the language required by 37 CFR 1.137(b)(3). However, the Office is construing the statement as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

With the present petition, petitioner paid a $900.00 extension of time fee. Pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. The $900.00 extension of time fee is unnecessary because it was submitted with the present petition, subsequent to the maximum period obtainable for reply. The $900.00 extension of time fee will be applied to the outstanding fee for filing the petition under 37 CFR 1.137(b) (*i.e.* $1,500.00). The Office will charge the Deposit Account for the balance of $600.00, as authorized.

This matter is being referred to Technology Center Art Unit 3724.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OIPE JC37
JAN 3 1 2005
PATENT & TRADEMARK OFFICE

Pet. Dec.

Docket No. 070331-011

PATENT

I certify that on January 21, 2005, this correspondence is being deposited in the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Commissioner for Patents, PO. Box 1450, Alexandria, VA 22313-1450.

Suzi McCraw

Suzi McCraw

Applicant: Richard G. Kleker
Serial No.: 10/417,045
Filing Date: April 15, 2003
Title: APPARATUS FOR WASHING AND DRYING GARMENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Approved
Jacqueline M. Stone, Director
Technology Center 1700
5/26/05

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Sir:

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The application has been transferred from this firm. Please change the correspondence address and direct all future correspondence to:

Ronald L. Rohde
20 Descanso #1215
San Jose, C 94606

This request is made on behalf of myself and all the attorney/agents of record.

This request is enclosed in triplicate.

Respectfully submitted,

Craig A. Gelfound, Reg. No. 41,032
Attorney for Applicant
310-277-1533

McDERMOTT WILL & EMERY LLP
2049 Century Park East, 34th Floor
Los Angeles, CA 90067
Telephone: (310) 277-4110 • [fax] (310) 277-4730

UNITED STATES 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

HARNESS DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 68303

COPY MAILED

AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Sean D. Wilkinson et al	:
Application No. 10/417,061	: DECISION ON PETITIONS
Filed: April 16, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 0275R-000642	: AND 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed design Application No. 29/161,759, filed June 4, 2002, as set forth in the amendment filed concurrently with the instant petition. This is also a decision on the petition filed pursuant to the provisions of 37 CFR 1.182 to expedite consideration of the instant petition under 37 CFR 1.78(a)(3).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition under 37 CFR 1.182 is **DISMISSED** for the reason stated *infra*.

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

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

The instant pending application was filed on April 16, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed design 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 above-noted, prior-filed design application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed design 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.

However, the claim for benefit to design Application No. 29/161,759 is improper in that the design application issued prior to the filing date of the instant application and therefore was not copending with the the instant nonprovisional application; i.e., the issue date of the design application is **April 15, 2003** and the filing date of the instant nonprovisional application is **April 16, 2003.** A continuation application is a second application for the same invention claimed in a prior application and **filed before** the original becomes abandoned or patented. Therefore, since the instant nonprovisional application is not copending with the design application for which the claim for benefit of priority is being made herein, the petition cannot be granted.

As to the petition under 37 CFR 1.182 for expedited consideration, as the Office did not take up this petition for prompt action in accordance with the request, the petition is dismissed as involving a moot issue. In view thereof, the $130 fee assessed therefor will be credited to petitioner's deposit account in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3724 for such action as the nature of the case may require.

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) 872-9306[1]
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

[1] Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

UNITED STATES 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

HARNESS DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 68303

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of
Sean D. Wilkinson et al
Application No. 10/417,061
Filed: April 16, 2003
Attorney Docket No. 0275R-000642

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: 37 CFR. 1.182

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed design Application No. 29/173,248, filed December 23, 2002, as set forth in the amendment filed concurrently with the instant petition. This is also a decision on the petition under 37 CFR 1.182 to expedite consideration of the instant petition under 37 CFR 1.78(a)(3).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

The petition under 37 CFR 1.182 is **GRANTED**.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot,

therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

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

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

Frances Hicks

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

---

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 48303

COPY MAILED

APR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:
Sean D. Wilkinson et al	:
Application No. 10/417,061	: DECISION ON PETITION
Filed: April 16, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 0275R-000642	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 23, 2004, and supplemented on April 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed design Application No. 29/173,248, filed December 23, 2003, as set forth in the amendment received April 7, 2005.

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 design application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed design 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 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 design 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 design application, accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3724 for appropriate action on the amendment filed April 7, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed design Application No. 29/173,248, filed December 23, 2002.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 24 2006

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

In re Application of: WILKINSON ET AL. Serial No.: 10/417,061 Filed: April 16, 2003 Docket: 0275R-000642 Title: ERGONOMIC HANDLE FOR VEGETATION TRIMMER	DECISION ON PETITION TO WITHDRAW FINALITY AS PREMATURE

This is a decision on the petition filed on June 15, 2005 to withdraw the finality of the Office Action of April 25, 2005.

The petition is **DISMISSED as moot**.

In his June 15, 2005 petition the applicant requested a withdrawal of the finality of the Office action on April 25, 2005. In support of his petition, the applicant argues that his March 8, 2004 amendment did not necessitate a final rejection.

The record shows that:

1) On December 8, 2003, the examiner issued a various rejections against the claims in the application.
2) On March 8, 2004, the applicant amended the claims in light of the rejections, the relevant amendment incorporating the limitations of Claim 12 into Claim 1.
3) On April 25, 2005, the examiner issued a final Office Action stating "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, THIS ACTION IS MADE FINAL."
4) On May 20, 2005, the applicant responded to the April 25, 2005 Office Action by arguing "that the Examiner entered a new ground of rejection but made the above-referenced action final. . ." The applicant also argued against the necessitation of finality because "the aforementioned amendment did not add any new limitations but rather had the effect of making the other claims dependent from originally filed Claim 12 instead of originally filed Claim 1. Applicant further notes that the Examiner has not stated that the aforementioned amendments to Claims 1, 5, 12, 13 and 14 could not have been reasonably expected. Accordingly, Applicant respectfully requests that the finality of the action be reconsidered and withdrawn."

5) On June 8, 2005 the Examiner issued an Advisory Action refusing to remove the finality of the action. Specifically, the examiner noted that "amendments incorporating dependent claims into independents raise new issues which necessitate new grounds of rejection when other dependent claims exist. The new (combination) independent claim still includes dependent claims, therefore, the analysis of all the claims in light of the changes raise new issues, e.g., the independent in combination with the dependent claim. It is not just a matter of claims 1 and 12 alone."
6) On June 15, 2005 the applicant filed present petition requesting the withdrawal of finality of the April 25, 2005 Office Action, specifically requesting "the incorporation of the limitations of Claim 12 into Claim 1 is an amendment that includes limitations which should have been reasonably expected to be claimed, and as such, the finality of the action is premature under M.P.E.P. §706.07(a)."
7) On August 24, 2005 the applicant submitted an amendment and again argued for the withdrawal of the finality of the Office Action. Additionally, the applicant submitted and Request for Continued Examination.
8) On November 8, 2005 the examiner issued a non-final Office Action due to the Request for Continued Examination.
9) On December 16, 2005 the applicant submitted an amendment and remarked "The undersigned gratefully acknowledges that the finality of the previous Office Action has been withdrawn pursuant to Applicants' Request for Continued Examination."

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the April 25, 2005 Office Action, has already occurred. Moreover, it should be noted that the applicant acknowledged the withdrawal of finality in the applicant's December 16, 2005 response to the examiner's November 8, 2005 Office Action by stating "The undersigned gratefully acknowledges that the finality of the previous Office Action has been withdrawn pursuant to Applicants' Request for Continued Examination." Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENKINS, WILSON & TAYLOR, P.A.
3100 Tower Blvd.
Suite 1400
Durham NC 27707

NOV 08 2005

In re Application of:	:	
David J. Brady	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/417,066	:	
Filed: April 16, 2003	:	
Attorney Docket No.: **180/160**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 04, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals that the law firm of Jenkins, Wilson & Taylor, P.A., were never properly appointed as attorneys for the applicant. Although the law firm Jenkins, Wilson & Taylor, P.A., was designated to receive the correspondence from the Patent and Trademark Office, there were no attorney's appointed.

All future communications from the Office will continue to be directed to the above 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: Shaw Pittman LLP
1650 Tysons Boulevard
McLean VA 22102-4859

10417078

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-21-06

Paper No.: _____

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6937832 B2

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

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

Thank You For Your Assistance

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

2852
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

COPY MAILED

JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of
Joachim Rheinheimer et al.
Application No. 10/417,083
Filed: April 17, 2003
Attorney Docket No. 49012-03

ON PETITION

This is a decision on the petition filed December 9, 2005, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned for failure to file a timely response to a Restriction Requirement mailed February 9, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed August 22, 2005.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed December 9, 2005 will be referred to Technology Center 1626 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

COPY MAILED

MAY 07 2007

OFFICE OF PETITIONS

Patent No. 7,158,669	:	LETTER REGARDING
Issue Date: January 2, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/417,102	:	AND
Filed: April 17, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 00862.023000.	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed February 26, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request review of the Patent Term Adjustment for the above-identified patent.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seven hundred ninety-eight (798) days.

On January 2, 2007, this application matured into U.S. Patent No. 7,158,669, with a revised patent term adjustment of 818 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that it is incorrect. A period of reduction of 25 days, not 5 days, should have been entered, pursuant to § 1.704(c)(10), for applicant delay in filing an Information Disclosure Statement (IDS) on October 2, 2006 after the mailing of the notice of allowance. The IDS did not include

a § 1.704(d) statement. The Office took action in response to the IDS on October 26, 2006, not October 6, 2006. Accordingly, pursuant to 1.704(c)(10), a reduction of 25 days for the period beginning on October 2, 2006 and ending on October 26, 2006 should have been entered.

In view thereof, the patent should have issued with a revised patent term adjustment of seven hundred ninety-eight (798) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **SEVEN HUNDRED NINETY-EIGHT (798)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,158,669 B2

DATED : January 2, 2007

INVENTOR(S) : Tanaka et al.

DRAFT

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 (818) days

Delete the phrase "by 818" and insert – by 798 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Patent No. 6,768,537 :
Issue Date: July 27, 2004 :
Application No. 10/417,120 : ON PETITION
Filed: April 17, 2003 :
Attorney Docket Number: 07481.0026-00 :

This is a decision on the petition, filed December 21, 2007, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about July 27, 2004, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost. The petition fee in the amount of $400.00 has been applied.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

1/16/08

Patent No. :7021294
Ser. No. : 10417121
Inventor(s) :Yamamoto et al.
Issued : 4/4/06
Title : FUEL PUMP CONTROL DEVICE
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-07473

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

COPY MAILED

MAR 3 1 2008

In re Application of	:	
TROUT III, Hugh et al.	:	
Application No. 10/417,163	:	DECISION ON PETITION
Filed: April 17, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 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 John N. Coulby on behalf of all attorneys of record who are associated with customer No. 25243. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Hugh H. Trout, III at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HUGH H. TROUT, III, M.D.**
8218 WISCONSIN AVENUE
SUITE 204
BETHESDA, MD 20814

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.
10/417,202	04/17/2003	Marion Kuehn	32860-000515/US	8706

30596 7590 01/17/2008
HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON, VA 20195

EXAMINER
VU, THANH T

ART UNIT	PAPER NUMBER
2174	

MAIL DATE	DELIVERY MODE
01/17/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 16 2008

TECHNOLOGY CENTER 2100

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

In re Application of: KUEHN, et al. Application No. 10/417,202 Attorney Docket No. 32860-000515/US Filed: 04/17/2003 For: METHOD FOR A SOFTWARE APPLICATION FOR TRIGGERING AN ACTION RELATING TO A DATA OBJECT, AND DATA PROCESSING DEVICE HAVING THE SOFTWARE APPLICATION	)))))))	DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed November 20, 2007, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed August 20, 2007.

A petition under 37 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. ***Note, 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.*** There is no fee required for a 1.181 petition.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) On March 7, 2007, a final Office action was mailed, wherein claims 1-28 were rejected.

(2) On June 7, 2007, a Request for Continued Examination was filed. New claim 29 was added. An interview request before first action after RCE was included, in accordance with MPEP 713.02.

(3) On August 20, 2007, a final Office action was mailed, wherein claims 1-29 were rejected.

(4) On November 20, 2007, the instant petition was filed along with a request for reconsideration of the finality of the previous Office action, an amendment to the claims as well as Applicant remarks.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests 1) acknowledgement and/or granting of the request for an interview filed with the RCE of June 7, 2007 and 2) withdrawal of the finality of the August 20, 2007 Office action.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

706.07(b) [R-6] Final Rejection, When Proper on First Action
The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are ***drawn to the same invention claimed in the earlier application***, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.
> The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.<
However, it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

MPEP § 706.07(d) states in part that:
If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

MPEP § 706.07(e) states in part that:
When a final rejection is withdrawn, all amendments filed after the final rejection ***are ordinarily entered***.

713.02 [R-6] Interviews Prior to First Official Action
A ***request for an interview*** prior to the first Office action ***is ordinarily granted*** in continuing or substitute applications. In all other applications, an interview before the first Office action **>is encouraged where< the examiner determines that such an interview would advance prosecution of the application. Thus, the examiner may require that an applicant requesting an interview before the first Office action provide a paper that includes a general statement of the state of the art at the time of the invention, and an identification of no more than three (3) references believed to be the "closest" prior art and an explanation as to how the broadest claim distinguishes over such references. See 37 CFR 1.133(a).

Consistent with Petitioner's remarks, a review of the prosecution record reveals that the newly presented claim 29, submitted with the amendment filed simultaneously with the RCE of June 7, 2007, differs in breadth and scope from the remaining claims pending in the instant application. Claim 29 currently recites a "selectively loading" step that "in response to the initiating ...", such limitation does not appear in the previously presented claims (1-28 as originally presented) and thus has not been previously considered by the Examiner. Therefore, such limitation would have required further consideration and search if filed in an Amendment under 37 CFR § 1.116 after

final. This constitutes a basis for consideration as a claim that is ***not*** drawn to the same invention as claimed in the earlier application (see MPEP 706.07(b)). Thus, the final Office action, mailed on August 20, 2007 is improper.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of August 20, 2007 is **GRANTED**.

The application file is being forwarded to the tech. support staff to **WITHDRAW** the finality of the previous Office action and to **ENTER** and **PROCESS** the amendment filed November 20, 2007. The file will then be forwarded to the Examiner for appropriate action and prompt consideration of the response filed November 20, 2007 as well as the request for interview filed June 7, 2007 in accordance with MPEP 713.02.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Wendy Garber, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Yoshimi Tomita et al	:	
Application No. 10/417,211	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. Q75074	:	

This is a decision on the petition, filed April 20, 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 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) 272-3208.

The examiner of Technology Center AU 2627 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 11 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
KIKUCHI, SHINICHI, et al.
Application No. 10/417,214
Filed: April 17, 2003
For: **DIGITAL VIDEO SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 10, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

APR 26 2007

Rebecca M. McNeill
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of Alizon et al	:
Serial No.: 10/417,217	:
Filed: 17 April 2003	: PETITION DECISION
Attorney Docket No.: 03495.0133-11000	:
	:

This is in response to the petition under 37 CFR 1.144 and 1.181, filed 22 March 2007, requesting reconsideration of the restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed 17 April 2003, under 35 U.S.C. 111(a).

On 28 June 2006 , the examiner mailed to applicants, a restriction requirement in which the claims 23-53 were divided into 6 groups, as follows:

> Restriction to one of the following inventions is required under 35 U.S.C. § 121:
>
> a. Group I, claim(s) 23-25, drawn to sundry HIV nucleic acids obtained from Figures 3A-F, classified in class 536, subclasses 23.72, 24.1, and 24.3.
>
> b. Group II, claim(s) 26-46, drawn to HIV particular cDNA fragments (e.g., 1-96; 97-179; 8676-9133; etc.) or nucleic acids capable of hybridizing thereto, classified in class 536, subclasses 23.72, 24.1, and 24.3.
>
> c. Group III, claim(s) 47, 48, and 53, drawn to HIV detection methods employing cDNA fragments or nucleic acids capable of hybridizing thereto, classified in class 435, subclass 5.

d. Group IV, claim(s) 49 and 50, drawn to HIV nucleic acids corresponding to sundry restriction fragments (e.g., *AvaI*-BamHI; *BamHI-EcoRI*; *EcoRI-HindIII*; etc.) as set forth in Figures 7A-I, classified in class 536, subclasses 23.72, 24.1, and 24.3.

e. Group V, claim(s) 51, drawn to an antibody that bind to an HIV peptide produced from a sundry number of restriction fragments as set forth in Figures 7A-I, classified in class 424, subclass 148.1, and class 530, subclasses 388.35 and 389.4

f. Group VI, claim(s) 52, drawn to sundry HIV polypeptides encoded by a cDNA restriction fragments as set forth in Figures 7A-I, classified in class 424, subclass 208.1.

On 12 October 2006, Applicants elected Group IV, claims 49-50 with traverse.

On 4 January 2007, the examiner mailed an Office action which considered the traversal and made the restriction requirement FINAL. Claims 23-48 and 51-53 were withdrawn from consideration. Claims 49 and 50 were examined on the merits and rejected under 35 USC 112, second paragraph for indefiniteness and objected to for minor informalities.

Applicants filed a response and a claim amendment on 22 March 2007. Applicants also filed this petition on 22 March 2007, requesting reconsideration of restriction requirement and rejoinder of Groups I-VI.

DISCUSSION

The file history and petition have been carefully considered.

All of the products of group I, II and IV are directed to polynucleotide molecules isolated from or hybridizing to the DNA or RNA of a virus genome. The polynucleotide molecules, which may be RNA, DNA or cDNA, are described in various ways in the specification and in the claims.

Figures 1A-1B depicts the restriction enzyme maps of the genome.

Figures 3A-3B show the relative correspondence of the proteins encoded by the open reading frames of the genome.

Figures 6A-6B point out direct repeat areas of the sequences

Figures 7A-7I show the full nucleotide sequence of the genome.

Claims 49 and 50 are under examination and are reproduced below as currently amended.

49. (Currently amended) A cDNA fragment of LAV_{MAL} produced by the process comprising treating a cDNA sequence that comprises a nucleotide sequence of FIGS. 7A-7I with at least one restriction enzyme, wherein the restriction enzyme is selected from the group consisting of ~~AvaI, BamHI, Bq1II, EcoRI, HindIII, HincII, KpnI, NdeI, PstI, SacI, and XbaI~~ *AvaI, BamHI, BglII, EcoRI, HindIII, HincII, KpnI, NdeI, PstI, SacI, and XbaI*.

50. (Previously presented) An RNA fragment corresponding to the cDNA fragment of claim 49.

In this application, the polynucleotide claims have been drafted using a combination of broad and narrow limitations to describe the same invention. The polynucleotide has been claimed in terms of the DNA, the RNA and the cDNA sequence as shown in Figures 3, 6 or 7. The polynucleotide has been claimed in terms of its own polynucleotide sequence, its complementary or hybridizing sequence or in terms of the polypeptide sequence which it encodes. The polynucleotide sequences have been claimed in terms of comprising a partial sequence as and such, encompass full length sequences. The partial sequences have been claimed in terms of their restriction enzyme map, their polynucleotide numbering scheme based upon the genomic sequence, the cDNA numbering scheme based upon the open reading frame and the numbering system corresponding to the polypeptide sequences that the polynucleotide sequence encodes.

MPEP 803 sets forth the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

MPEP 806 states

> Where inventions are related as disclosed but not distinct as claimed, restriction is never proper.

MPEP 806.03 states

Single Embodiment, Claims Defining Same Essential Features

Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

The examiner has already searched and examined various polynucleotides encompassed by claims 49 and 50 in the Office action mailed 4 January 2007. These sequences are not distinct from the ones claimed in Group I and II because the polynucleotides of Group I and II are described in open claim language "comprising" and require small partial sequences which would be encompassed by the larger restriction enzyme fragments of Group IV. Moreover, the examiner did not require an election of a single polynucleotide sequence in Group IV but examined all the fragments 3ncompassed by claim 49 and those which correspond to them in claim 50 on the merits in the Office action mailed 4 January 2007.

In this particular instance, given the file history of this particular application, the Office cannot maintain ~~showing~~ a showing of independence or distinction or a showing of search and examination burden with regard to the polynucleotide products of Groups I, II and IV.

The polypeptides of Group VI remain distinct from the polynucleotides of Group (I, II and IV) because (1) they differ in design: polypeptides are made up amino acids while polynucleotides are made of nucleic acids and (2) they differ in operation- the polynucleotides can be used in hybridization assays while the polypeptides may be used to raise antibodies.

The antibodies of Group V are distinct from the polynucleotides of Group (I, II and IV) because (1) they differ in design: antibodies are made up amino acids while polynucleotides are made of nucleic acids and (2) they differ in operation- the polynucleotides can be used in hybridization assays while the antibodies may be used for passive immunization or for isolating antigens.

The method of Group III is distinct from the polynucleotides of Group (I, II and IV) because the polynucleotides may be used for a variety of materially distinct methods including production of protein, hybridization screening methods, PCR amplification methods, etc.

Because these inventions of Groups (I, II, IV), III, V and VI are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search and different area of classification (see MPEP § 808.02), restriction for examination purposes as indicated is proper

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The restriction requirement made between polynucleotide inventions of Groups I, II, and IV has been withdrawn.

The restriction requirement between Group (I, II, IV) drawn to polynucleotides and Group V, drawn to antibodies and Group VI drawn to polypeptides, has been maintained.

The restriction requirement between Group (I, II, IV) drawn to polynucleotides and Group III, drawn to a method of using the polynucleotides, has been maintained.

The process of Group III, drawn to using the polynucleotides of Groups (I, II and IV) will be considered for rejoinder when all the elected product claims are in condition for allowance and all the process claims depend from or otherwise require all the limitations of allowable product claims, per MPEP 821.04(b).

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for further action consistent with this decision and to consider the papers filed 22 March 2007.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALOYSIUS T.C. AUYEUNG
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OREGON 97204

COPY MAILED

JAN 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Serge J.A. Bierhuizen	:	
Application No. 10/417,245	:	NOTICE
Filed: April 15, 2003	:	
Attorney Docket No. 107773-130248		

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN F. KIOS
FULBRIGHT & JOWORSKI
80 SOUTH 8TH STREET
SUIT 2100
MINNEAPOLIS MN 55402

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of	:
David Burton	:
Application No. 10/417,247	: DECISION ON PETITION
Filed: April 15, 2003	: UNDER 37 CFR 1.181
Attorney Docket No. 24,577-29	:

This is a decision on the petition filed July 5, 2005, under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration should be filed within two (2) months from the mailing date of this decision. *Note* 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply to the Notice of Non-Compliant Amendment (Notice), mailed October 26, 2004. A Notice of Abandonment was mailed on May 4, 2005.

Petitioner asserts that failure to timely reply was due to nonreceipt of the Notice of October 26, 2004.

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.

A review of the written record indicates no irregularity in the mailing of the Notice and is presumed to have been properly mailed to the address of record.[1] This presumption may be overcome by a showing that the Notice was not in fact received.

---

[1]A Change of Address was received in the USPTO on December 2, 2004.

In this regard, the showing required to establish the failure to receive the Notice must consist of a statement from petitioner stating that the Notice was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received. **A copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in petitioner's statement.**

Petitioner states that he searched the **file jacket** of the above application and found no reference to the Office communication of October 26, 2004. In support of nonreceipt of the Notice of October 26, 2004, petitioner has submitted a copy of the docket record where the nonreceived Notice would have been entered had it been received, which is a printout of the firm's database of all the firm's items that were docketed for November 26, 2004, the due date for reply.

While petitioner has submitted a copy of the firm's database showing receipt of all items docketed for November 26, 2004, the showing is incomplete in that petitioner has not submitted a copy of the referenced file jacket which should show entries of all actions from the USPTO. The evidence required to establish nonreceipt should include a copy of **all** records maintained by the firm which would corroborate nonreceipt of the action at issue.

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

If petitioner cannot provide evidence of the nature required above or simply does not wish to, 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).

A copy of the Notice mailed October 26, 2004, accompanies this decision.

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

ATTACHMENT: Copy of Notice mailed October 26, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN F. KIOS FULBRIGHT & JOWORSKI
80 SOUTH 8TH STREET
SUITE 2100
MINNEAPOLIS MN 55402

COPY MAILED
SEP 29 2006
OFFICE OF PETITIONS

In re Application of	:	
David Burton	:	
Application No. 10/417,247	:	DECISION GRANTING PETITION
Filed: April 15, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 24,577-29	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply of January 27, 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 3736

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

COPY MAILED
AUG 0 4 2006
OFFICE OF PETITIONS

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
WASHINGTON DC 20005

In re Application of	:	
Edward Victor George et al	:	
Application No. 10/417,256	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. SAIC0026-CON1	:	

This is a decision on the petition, filed August 3, 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 20, 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 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 16, 2007

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No. 10/417256 patent no.7144528

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: Correction Request is appropriate. Approval is suggested.

Exmr. T. Tran (2821) 05/23/07

Douglas W. Owens

DOUGLAS W. OWENS
SUPERVISORY PATENT EXAMINER

SPE

2821
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

DOCKET NO: SAIC0026-CON1 PATENT

O I P E
MAR 2 7 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re. Patent Application of:

Edward Victor GEORGE, et al. Art Unit: 2821

App. Serial No.: 10/417,256 Examiner: Thuy V. Tran
Patent No.: 7,137,857

Filing date: April 17, 2003
Issue date: November 21, 2006

For: METHOD FOR MANUFACTURING A LIGHT-EMITTING PANEL

REQUEST FOR CERTIFICATE OF CORRECTION

U.S. Patent and Trademark Office
Customer Service Window
Attn: Certificate of Correction Branch
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Approved,
Exmr. T. Tran
05/23/07

Sir:

The undersigned requests that a Certificate of Correction be issued for the above-identified patent as indicated on the attached Form PTO/SB/44 (04-05).

This request is being made in order to correct errors in the Drawing and Claims sections of the patent.

Since this Request for Certificate of Correction is being filed due to an error by the U.S. Patent and Trademark Office, no fees are believed to be necessary. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any

MAR 2 9 2007

overpayment, to Deposit Account No. 501458. A duplicate copy of this letter is submitted herewith for that purpose.

Respectfully submitted,

Date: 3/27/07

By: _____

KILPATRICK STOCKTON LLP
607 14th Street, N.W., Suite 900
Washington, D.C. 20005
Telephone: (202) 508-5800

George T. Marcou
Registration No. 33,014

36609/285011
Doc. No. 9837975

MAR 2 9 2007

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 : 7,137,857

APPLICATION NO. : 10/417,256

ISSUE DATE : November 21, 2006

INVENTOR(S) : Edward Victor GEORGE, 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 CLAIMS -

In Column 14, line 4, please change "each micro-component emitting radiation where a trig-" to -- each micro-component emitting radiation when a trig- --

IN THE DRAWINGS:

Please replace Fig. 6A with the following figure (some of the reference numbers were cut off when figure was included in the issued patent):

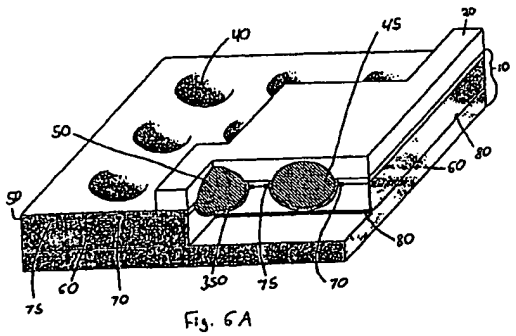

Fig. 6A

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Kilpatrick Stockton LLP
607 14th Street, N.W., Suite 900
Washington, DC 20005

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

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

MAR 29 2007

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 : 7,137,857

APPLICATION NO. : 10/417,256

ISSUE DATE : November 21, 2006

INVENTOR(S) : Edward Victor GEORGE, 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 DRAWINGS:

Please replace Fig. 6B and Fig. 8 with the following figures (some of the reference numbers were cut off when figure was included in the issued patent):

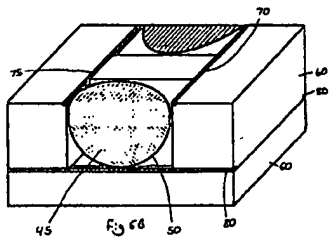

Fig 6B

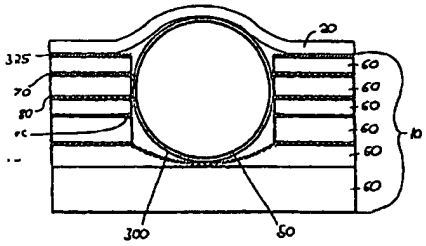

Fig. 8

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Kilpatrick Stockton LLP
607 14th Street, N.W., Suite 900
Washington, DC 20005

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

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

MAR 2 9 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

BACON & THOMAS PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

DEC 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Bor-Sung Liang	:	
Application No. 10/417,259	:	NOTICE
Filed: April 17, 2003	:	
Attorney Docket No. LIAN3016/EM	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED Paper No. 4

SEP 0 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THOMAS A. GALLAGHER, ESQ.
65 WOODS END ROAD
STAMFORD, CT 06905

In re Application of:
LEE, CHUNG-HOON
Application No. 10/417,276
Filed: April 16, 2003
For: **DECORATIVE HEADSET FOR A CELLULAR PHONE AND METHOD OF MAKING SAME**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 16, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee – $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-04

Paper No: 5

RICHARD P. FENNELLY
AKZO NOBEL INC.
INTELLECTUAL PROPERTY DEPT
7 LIVINGSTONE AVENUE
DOBBS FERRY NY 10522

COPY MAILED
AUG 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
van de Bovenkamp-Bouwman, et al.	:	
Application No. 10/417,313	:	DECISION ON PETITION
Filed: 16 April, 2003	:	
Attorney Docket No. ACD 2618 US1	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed 22 September, 2003, seeking to have accorded to the instant application a filing date of 16 April, 2003.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

The application was deposited on 16 April, 2003.

On 29 July, 2003, the Office mailed a Notice of Omitted Item(s) in a Provisional Application, stating that a filing date had been accorded a filing date, however, page 36 of the specification was missing.

Petitioner filed the instant petition on 22 September, 2003, and submitted with the petition a statement, *inter alia*, that "[page 36] contained certain claims, and these Claims were intended to be cancelled anyway by virtue of the Preliminary Amendment that accompanied the application when it was filed.".

MPEP 601.01(d) states, in part:

* * *

> An applicant willing to accept the application as deposited in the USPTO need not respond to the "Notice of Omitted Items," and the failure to file a petition under

> 37 C.F.R. §1.53(e)or 37 C.F.R. §1.182 (and the required petition fee)as discussed above within 2 months of the date of the "Notice of Omitted Item(s)" (37 C.F.R. §1.181(f)) will be treated as constructive acceptance by applicant of the application as deposited in the USPTO. Amendment of the specification is required in a nonprovisional application to renumber the pages consecutively and cancel any incomplete sentences caused by the absence of the omitted page(s). Such amendment should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.
>
> * * *

Thus, the instant petition was not necessary.

In view of the foregoing:

- the petition as considered under 37 C.F.R. §1.53 is **dismissed as moot**, and because the instant petition was not occasioned by an error of the Office, the petition fee ($130.00) will not be refunded; and

- the "Notice" mailed 29 July, 2003, was properly mailed and will not be disturbed.

The application will be processed with only the papers present on filing on 16 April, 2003, and expressly not to include page 36.

The application file is forwarded to the Office of Initial Patent Examination for further processing as necessary consistent with this decision. Thereafter, the application will be forwarded for examination in due course.

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

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

APPROVED

RECEIVED
CENTRAL FAX CENTER
OCT 12 2005

PTO/SB/83 (04-05)
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	10/417,332
Filing Date	April 17, 2003
First Named Inventor	Emilio PETRONGOLO
Art Unit	3834
Examiner Name	David M. PUROL
Attorney Docket Number	15024-1US

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

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ the attorneys/agents associated with Customer Number 020988

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: Client is no longer paying our debit notes. Last payment is six months ago. Client owes us more than $15,000. Client has failed to comply with all payment agreements, even when accepted by him.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Emilio PETRONGOLO				
Address	1221, rue D'Evreux				
City	Boucherville	State	Québec	Zip	J4B 7T3
Country	CANADA				
Telephone	(514) 383-5353	Email			
Signature					
Name	Nicolas PELLEMANS	Registration No.	38,797		
Date	October 12, 2005	Telephone No.	(514) 847-4939		

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 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 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

COPY MAILED

JAN 14 2008

OFFICE OF PETITIONS

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of	:	
Roderic M. K. Dale	:	
Application No. 10/417,350	:	DECISION ON PETITION
Filed: April 17, 2003	:	TO WITHDRAW
Attorney Docket No. 31249-704.301	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Wilson, Sonsini, Goodrich & Rosati has been revoked by the assignee of the patent application on September 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LOWENSTEIN SANDLER, PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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
10/417,350	04/17/2003	Roderic M.K. Dale	31249-704.301

CONFIRMATION NO. 1754

POA ACCEPTANCE LETTER

28221
PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

OC000000027683489

Date Mailed: 01/14/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/417,350	04/17/2003	Roderic M.K. Dale	20150-65

CONFIRMATION NO. 1754

POWER OF ATTORNEY NOTICE

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

OC000000027683488

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/06/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCK AND CO INC
P O BOX 2000
RAHWAY NJ 07065-0907

COPY MAILED

SEP 24 2003

OFFICE OF PETITIONS

In re Application of
Chambers et al.
Application No. 10/417,360
Filed: April 16, 2003
Attorney Docket No. T1575

:DECISION DISMISSING
:REQUEST FOR NONPUBLICATION
: UNDER 37 CFR 1.213

This is in response to the "Response to Notice Regarding Nonpublication Request," filed via facsimile on July 17, 2003, to consider applicant's previously filed Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i) to be a valid Nonpublication Request in light of the priority claim to GB Application No. 0208897.9, filed April 18, 2002.

The request is dismissed.

Applicant argues that the Nonpublication Request filed with the application is a valid Nonpublication Request even in light of the priority claim to the GB Application No. 0208897.9, because the invention disclosed in U.K. Application No. GB Application No. 0208897.9 will not be published at eighteen months after filing. Applicant argues that UK Patent Law permits the filing of a provisional patent application and that such provisional patent applications terminate unless the claims, abstract and a request for preliminary examination are filed within twelve months of the priority date. Applicant explains that since neither the claims, abstract nor a request for preliminary examination were filed within the time period, the application went abandoned, and the application will not be published at eighteen months. As a result, applicant argues that the Nonpublication Request is valid.

35 U.S.C. § 122(b)(2)(B) states:

> (i) If an applicant makes a request upon filing, certifying that the invention disclosed in the 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 of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

37 CFR 1.213 implements the provisions of 35 U.S.C. § 122(b)(2)(B).

Accordingly, in order to request nonpublication, applicants must certify that "the invention disclosed in the application has not been 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." This application was filed with a priority claim to a patent application that was filed in Great Britain, a country that requires publication of patent application of applications 18 months after filing, and a nonpublication request with a certification that the application had not be filed in a country that requires publication 18 months after filing. Due to this inconsistency, the Office has not accepted the Nonpublication Request. The argument that

the Request is proper is not persuasive because the statutory language clearly provides that so long as an application has been filed in a country (or under a multilateral agreement) that requires publication 18 months after filing, a Nonpublication Request is not appropriate. Where a patent application is filed and subsequently abandoned or withdrawn and which does not actually publish, such an application still is an application for patent. Accordingly, the statute clearly provides that where applicant has filed such an application for patent in a foreign country, applicant cannot later allege that no such application was filed in a Nonpublication Request.

Any inquiries concerning this decision may be directed to Mark Polutta at (703) 308-8122.

Karin Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of:
Trent W. Davis, et al :
Serial No. 10/417,370 :
Filed: 4/16/2003 :
For: METHOD FOR INCREASING PRESS FABRIC VOID VOLUME BY LASER ETCHING

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The examiner therefor will communicate the reasons to you.

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 Andrew Wang (571) 272-0811.

Jasemine C. Chambers

Jasemine C. Chambers, Director
Technology Center 1600

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE – 10TH FLOOR
NEW YORK, NY 10151

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 0 8 2005

OFFICE OF PETITIONS

Davis Munck PC
Docket Clerk
P.O. Drawer 800889
Dallas, Texas 75380

In re Application of
MacLean
Application No. 10/417,379
Filed: April 16, 2003
Attorney Docket No. P05363

: DECISION GRANTING PETITION

This decision is in response to applicant's 'REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR 1.705(b)" requesting that the Office adjust the patent term adjustment determination at the time of the allowance from a determination f one hundred and eight (108) days to a determination of one hundred and eleven (111) days at the time of the mailing of the notice of allowance.

Applicant's request for reconsideration is **GRANTED.** The Office will adjust the PTA calculation to reflect a value of one hundred and eleven days (111) at the time of the mailing of the notice of allowance.

Applicants argue that the correct amount of PTA is one hundred and eleven days based upon the Office's failure to initially act upon the application within fourteen months of the filing of the application under 37 CFR 1.702(a)(1). Applicant do not expressly assert any applicant delays of their own.

The Office notes that the three day discrepancy is based upon the Office's assessment of a three day penalty for responding to the Office's Notice to File Missing Parts outside of the three month reply period.[1] However, a review of the record reflects that applicants replied on September 8, 2003 rather than the date of October 10, 2003. Accordingly, the three day reduction for failing to reply within three months of office action or notice pursuant to 37 CFR 1.704(b) is in error. Accordingly, applicant did not have any failures to engage in reasonable efforts to conclude prosecution of the application at the time of the mailing of the notice of allowance. The correct amount of PTA is one hundred and eleven (111-0=111) days.

The Office acknowledges the submission of the $200.00 required fee for deciding this request for

[1]The PALM record reflects that applicants filed a response to the missing parts on October 10, 2003.

reconsideration. No additional fees are required.

After the mailing of this decision, the patent application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. The Office apologizes for any delays in issuing the patent. The Office will add additional PTA days at the time of the mailing of the issue notification letter for the Office's failure to issue the within four months of payment of issue fee and all other requirements being satisfied pursuant to 37 CFR 1.702(a)(4).

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries

Karin Ferriter per
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner for
Patent Examination Policy

CC: Adjusted Pair Calculation

UNITED STATES 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.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

COPY MAILED

SEP 20 2006

OFFICE OF PETITIONS

In re Patent No. 7,105,505 :
Zeng et al. :
Application No. 10/417,391 : DECISION ON APPLICATION FOR
Filed: April 16, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. AL01581K1 :

This letter is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(b)," filed August 1, 2006. Patentees request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) accompanying the Notice of Allowance be corrected from two hundred thirteen (213) days to two hundred eighty (280) days.

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

On August 1, 2006, applicants timely submitted[1] the instant request for reconsideration of the patent term adjustment at the time of the mailing of the Notice of Allowance. Prior to a decision being issued, on September 12, 2006, the above-identified application matured into U.S. Patent No. 7,105,505, with a revised patent term adjustment of 313 days. Patentees had asserted that the initial determination of patent term adjustment of 213 days noted at page 3 of the Notice was incorrect, and that it should be corrected to 280 days.

However, a review of the record reveals that, on May 5, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The

[1] PALM records indicate that the Issue Fee payment was received on August 2, 2006.

Notice stated that the patent term adjustment to date is 280 days (not 213 days). Thus, there is no need for correction of the PTA to 280 days at the time of the mailing of the Notice of Allowance.

Further, after the mailing of the Notice, an additional period of adjustment of 33 days was properly entered for Office delay in mailing the Notice of Allowance mailed May 5, 2006. The Office took four months and 33 days to take action in response to the request for continued examination (RCE) received December 2, 2005. See 37 CFR §§ 1.702(a)(4) and 1.703(a)(6).

In view thereof, the patent correctly issued with a revised Patent Term Adjustment of three hundred thirteen (313) days.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of 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
www.uspto.gov

James Robert McGovern
63 (B) Independence Court
Yorktown Heights NY 10598

COPY MAILED

JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
McGovern :
Application No. 10/417,396 :
Filed: April 17, 2003 : ON PETITION
Attorney Docket No. N/A :
For: SOLAR/WIND ACTUATED FARADAY PRINCIPLE TURBINE GENERATOR

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

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the August 12, 2005 non-final Office action, which set an extendable three month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on November 13, 2005. A Notice of Abandonment was mailed on April 20, 2006.

Petitioner alleges that a reply was mailed via USPS Registered Mail on November 12, 2005 and received in the Office on November 18, 2005.

The Office has no record of receiving the November 12, 2005 mailing. However, petitioner has provided an Office date stamped receipt that shows that the Office received Article Number RB974867150US on November 18, 2005, which was **after** the due date for the reply (November 12, 2005).

There are only two ways to get the Office to recognize a filing date other than the date of receipt for correspondence other than original applications, in general:

(1) Petitioner must provide a copy of the original document with an affixed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) OR
(2) Petitioner must provide a copy of an Express Mail label showing a "date-in" of the desired date and a copy of the document that contains a reference to the Express Mail receipt number (37 CFR 1.10).

Petitioner is informed that Registered Mail is not viewed the same as Express Mail service or certificate of mailing practice. Unfortunately, petitioner did not utilize Express Mail service and it is uncertain as to whether or not a proper certificate of mailing was affixed to the November 12, 2005 correspondence, because petitioner has not provided a copy of the November 12, 2005 correspondence.

With any reconsideration petition, petitioner must supply a copy of the November 12, 2005 correspondence.

Because petitioner has not provided acceptable evidence that the amendment was filed by November 12, 2005, the petition is dismissed.

If petitioner did not utilize certificate of mailing practice when he filed the November 12, 2005 correspondence, petitioner should file a petition to revive under the unavoidable standard of 37 CFR 1.137(a). The petition fee is $250.00. For petitioner's convenience, a blank PTO/SB/61 -- Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a).

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/61 -- Petition for Revival of an Application Abandoned Unavoidably under 37 CFR 1.137(a)

Privacy Act Statement

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.
NOTE: A grantable petition requires the following items:
(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

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

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

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

I hereby certify that this correspondence is being:

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

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

PTO/SB/61 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 20 2009

OFFICE OF PETITIONS

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

In re Application of	:
Palu, et al.	:
Application No. 10/417,406	: DECISION ON PETITIONS
Filed: April 16, 2003	: UNDER 37 CFR 1.78(a)(3) and (6)
Attorney Docket No. 10209.494	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 20, 2009, 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. 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 1655 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
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
10/417,406	04/16/2003	1655	2190	10209.494	62	9

CONFIRMATION NO. 6855

CORRECTED FILING RECEIPT

21999
KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

OC000000036640151

Date Mailed: 06/25/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Afa Kehaati Palu, Orem, UT;
Brett West, Orem, UT;
Claude Jarakae Jensen, Cedar Hills, UT;
Chen Su, West Jordan, UT;
Bing-Nan Zhou, Sandy, UT;
Stephen P. Story, Alpine, UT;

Power of Attorney:

Dale Hulse--29654
Berne Broadbent--30550
David Westerby--30900
Todd Zenger--33610
Michael Krieger--35232
Kenneth Horton--39481
Christopher Johnson--46809
Julie Gheem--47592
David Tingey--52289
Alexis Nelson--52321

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/457,557 03/26/2003
and is a CIP of 10/006,014 12/04/2001
which claims benefit of 60/251,416 12/05/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/417,406**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Morinda citrifolia as a 5-Lipoxygenase inhibitor

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-07

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

COPY MAILED

APR 0 9 2007

OFFICE OF PETITIONS

In re Patent No. 7,003,892 :
Issued: 28 February, 2006 :
Application No. 10/417,420 :
Filed: 15 April, 2003 :
Atty Docket No. R0601.70006US00 :

ON PETITION

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 23 January, 2007.

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

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

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

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

Small entity status will no longer apply.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Qun-Yong Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7598048	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/417,426	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **511** 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

GALGANO & BURKE
SUITE 35
300 RABRO DRIVE
HAUPPAUGE, NY 11788

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Leon et al.	:	
Application No. 10/417,432	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. 152-56(a)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/662,301, filed September 15, 2000, as set forth in the concurrently filed amendment.

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.

The instant pending nonprovisional application was filed on April 16, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed 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)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3.[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be credited to petitioner's credit card in due course.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. 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 AU 1615 for appropriate action on the amendment filed July 11, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

ALLEN DARDEN
PHELPS DUNBAR, L.L.P.
P.O. BOX 4412
BATON ROUGE LA 70821-4412

COPY MAILED

JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Chapman, et al.
Application No. 10/417,441
Filed: April 15, 2003
Attorney Docket No. 19856-1
For: GOLF SWING CONDITIONER

DECISION GRANTING
PETITION

This is a decision on the paper, filed November 13, 2003, requesting that the above-identified application be accorded a filing date of April 15, 2003 rather than the presently accorded filing date of April 16, 2003. The paper will be treated as a petition under 37 CFR 1.10(c).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on April 15, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. ET170800399US showing no "date-in" **and** a USPS date stamp of "APR 15 2003." The same Express Mail label number is listed on the original New Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. ET170800399US was deposited with the USPS on April 15, 2003.

Accordingly, the petition is granted.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **April 15, 2003** and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED
NOV 10 2003
OFFICE OF PETITIONS

In re Application of
Sturgeon, Driggers & Eaton
Application No.: 10/417,447
Filed: April 16, 2003
Attorney Docket No.: 100203088-1
For: ELECTRICALLY GROUNDED CONDUCTIVE ESD SHUNT MECHANISM FOR FLUID-EJECTION MECHANISM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 15, 2003 (certificate of mailing date September 9, 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 16, 2003 without an executed oath or declaration. Accordingly, on June 12, 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 15, 2003, a petition for a one month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Attorney Michael A. Dryja accompanied the petition. Attorney Dryja explains that non-signing joint inventor Sturgeon was e-mailed a copy of the declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application. In addition, he states that Sturgeon has taken a leave of absence from Hewlett-Packard, is currently traveling the world in van, and is not answering his cell phone.

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 non-signing inventor cannot be located.

As stated in MPEP 409.03(d), " The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47(a)."

Petitioners must engage in further efforts to obtain a signed declaration from Inventor Sturgeon. Attachment 2 to Attorney Dryja's statement of facts is an AutoReply from Scott Sturgeon that states he will be out of the office until January 5, 2004. While petitioners do not have a residence address for Sturgeon, petitioners do have a work address for Sturgeon that will be valid on January 5, 2004.

The Office requires petitioners to mail a complete copy of the application, including specification, claims and drawings, and the declaration to the inventor's business address with the request that he sign the declaration. Perhaps Melina McCarty, Sturgeon's former manager at Hewlett-Packard will be able to assist in obtaining Sturgeon's cooperation once he returns to the Office on January 5, 2004.

Petitioners could also e-mail the complete application to Sturgeon along with the declaration and request that he respond to the e-mails. Petitioners must show that Sturgeon opened the attachments in order to satisfy the presentation of application papers requirement.

In order to obtain 47 status, petitioners must show refusal, either express or constructive, on Sturgeon's part to execute the declaration. When petitioners can show that Sturgeon received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A review of financial records for this application reveals that petitioners submitted an authorization to charge a $110 one month extension of time and a $130 petition fee. However, the Notice mailed June 12, 2003 required a $130 surcharge for the late filing of a declaration, also. Fortunately, the Fee Transmittal filed with the instant petition authorizes the Office to charge any additional fee(s) during the pendency of this application. Pursuant to petitioners' authorization, deposit account no. 08-2025 will be charged the $130 still owed.

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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED

JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of Sturgeon, Driggers & Eaton Application No.: 10/417,447 Filed: April 16, 2003 Attorney Docket No.: 100203088-1 For: ELECTRICALLY GROUNDED CONDUCTIVE ESD SHUNT MECHANISM FOR FLUID-EJECTION MECHANISM	: : : : :	DECISION NOTING JOINDER OF NON-SIGNING INVENTOR & PETITION UNDER 37 CFR 1.47(a) DISMISSED AS MOOT

Papers filed on December 29, 2003 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on November 10, 2003, included a Declaration signed by the previously nonsigning inventor, Scott D. Sturgeon, in compliance with 37 CFR 1.63.

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-21-08

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/417457 Patent No.: 7378565

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

OK to enter

Comments: _____

/D. Lawrence Tarazano/ 1794

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

MAILED
FROM DIRECTORS OFFICE

OCT 05 2005

TECHNOLOGY CENTER 3600

New Market Services Corporation
(Formerly Ethyl Corporation)
330 South 4th Street
Richmond, VA 23219

In re application of
F. Alexander Pettigrew, et al.
Application No. 10/417,465
Filed: April 16, 2003
For: EMISSIONS CREDIT METHOD

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on September 8, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102.

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102 and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special filed under 37 C.F.R. § 1.102(c) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicants' petition was received on September 8, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reason, the petition is denied. Therefore, the application will be examined in its regular turn.

Any inquiry regarding this decision should be directed to Randolph A. Reese, Special Program Examiner, at (571) 272-6619.

Randolph A. Reese
Special Program Examiner
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lawrence W. Thonn, Jr.
3665 Bank Dr., Apt. A
St. Gabriel LA 70776

COPY MAILED

JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Lawrence W. Thonn, Jr.	:	DECISION ON PETITION
Application No. 10/417,483	:	UNDER 37 CFR 1.137(b)
Filed: April 17, 2003	:	
Title: Lean Abs Machine	:	

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

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on March 10, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on June 11, 2005. A Notice of Abandonment was mailed on September 21, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted**.

This matter is being referred to Technology Center Art Unit 3764.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
APR 14 2008
OFFICE OF PETITIONS

In re Application of
Komada, et al.
Application No. 10/417,489
Filed: April 17, 2003
Attorney Docket No. CU-6091

DECISION ON PETITION

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.

The application became abandoned May 1, 2006 for failure to timely submit a proper reply to the Office action mailed January 30, 2006. The Office action set a three month shortened period of time for reply. Notice of Abandonment was mailed August 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (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 Technology Center AU 1773 for appropriate action by the Examiner in the normal course of business on the reply received herewith.

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

LAW OFFICES OF
JOHN D. GUGLIOTTA, PE, ESQ.
202 DELEWARE BLDG.
137 S. MAIN STREET
AKRON, OH 44308

COPY MAILED

FEB 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Tan et al.	:	
Application No. 10/417,514	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket Number:	:	
1247	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b), filed December 8, 2005.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed August 2, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 12, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

FEB 11 2008

OFFICE OF PETITIONS

In re Application of
Kobayashi, et al.
Application No.: 10/417,516
Filed: April 17, 2003
Attorney Docket No: CU-5990

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed March 6, 2006, and in duplicate on November 26, 2007.

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 application became abandoned for failure to respond in a timely manner to the final Office action mailed November 2, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on February 3, 2006. A Notice of Abandonment was mailed on June 13, 2006.

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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may 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(c).

The instant petition does not satisfy the requirements of item (1) above.

As to item (1) above, Examiner Mark Huff has determined that the amendment filed March 6, 2006, does not place the application in condition for allowance. The petition must be dismissed because of the lack of a proper response to the final Office action. The renewed petition must accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance or Request for Continued Examination under 37 CFR 1.114. Questions regarding the determination of the sufficiency of the reply filed March 6, 2006, should be directed to Examiner Huff.

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

By mail:

Mail Stop Petitions
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 concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 0 6 2008

In re Application of

Kobayashi, et al.

Application No. 10/417,516

Filed: April 17, 2003

Attorney Docket No. CU-5990

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to respond to the final Office action mailed November 2, 2005, which set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on February 3, 2006. A Notice of Abandonment was mailed June 13, 2006. A petition under 37 CFR 1.137(b) was first filed on March 6, 2006, and dismissed by a decision mailed February 11, 2008.

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

The Request for Continued Examination, filed February 2, 2008, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1795 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050316

DATE : March 16, 2005

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction on Patent No.: 10/417,526

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: Carl Whitehead Jr. **Art Unit** 2813

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050316

DATE : March 16, 2005

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction on Patent No.: 10/417,526

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: Carl Whitehead Jr. **Art Unit** 2813

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
McCabe, Alan J.	:	
Application No. 10/417,533	:	DECISION ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. COS01030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KAREN B. TRIPP
P.O. BOX 1301
HOUSTON TX 77251-1301

COPY MAILED

JAN 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Walter R. May	:	
Application No. 10/417,547	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 0357FV.033083	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 3, 2004.

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

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

The file is being referred to Publishing Division.

Karen Creasy

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

Attachment: Blank Issue Fee Transmittal Form

UNITED STATES 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

Min (Amy) S. Xu, Esq.
Dorsey & Whitney LLP
Intellectual Property Dept.
50 South 6th street Suite 1500
Minneapolis, MN 55402-1498

COPY MAILED

AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of James Snyder Application No. 10/417,548 Filed: April 16, 2003 Attorney Docket No. 11632US.02	: : : : :	DECISION ON PETITION

This is a decision on the petition filed August 4, 2003, requesting that the above-identified application be accorded a filing date of April 16, 2003, rather than the presently accorded filing date of April 17, 2003.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on April 16, 2003, pursuant to the requirements of 37 C.F.R. § 1.10; however, the USPTO failed to accord the application a filing date as of the "date-in" or deposit date with the USPS. In support, petitioner submitted *inter alia*:

- a true copy of the Certificate of Mailing by Express Mail;
- a true copy of the Track and Confirm record for the Express Mail mailing from the USPS's website; and
- a true copy of "Express Mail" mailing label No. EV156914435US.

The instant petition was filed promptly within the meaning of § 1.10. A review of the evidence further reveals that: The Certificate of Mailing by Express Mail expressly identifies the papers that were received in the Office in the Express Mail package. The Certificate is also among the papers received in the Office in the Express Mail package[1]. Furthermore, the Certificate of Mailing bears the Express Mail mailing label number EV156914435US. More importantly, a review of the application papers reveals that the application transmittal (and the specification) also bear the Express Mail mailing label number. Thus, petitioner has shown that the Express Mail mailing label number was placed on the correspondence prior to the original mailing.

---

[1] Petitioner is reminded that had the Certificate of Mailing not been among the papers received in the Office and had it not specifically identified the contents of the mailing, it would have been given very little, if any, probative weight. See MPEP 512.

Moreover, the Track and Confirm record states that the relevant Express Mail mailing was accepted by the USPS at 9:15 pm on April 16, 2003. Furthermore, a review of the Express Mail mailing label No. EV156914435US reveals that the package was sent via the USPS "Express Mail Post Office to Addressee" service. Finally, the label shows both a date-in of April 16, 2003 and bears a USPS postmark of April 16, 2003.

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

No petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for **correction of the filing date to April 16, 2003** and mailing of a corrected filing receipt.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Alan A. Csontos
Michelin North America, Inc.
515 Michelin Road
P.O. Box 2026
Greenville, SC 29602

COPY MAILED

NOV 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Boulot	:	DECISION ACCORDING
Application No. 10/417,575	:	STATUS UNDER
Filed: April 17, 2003	:	37 CFR 1.47(b)
Attorney Docket No. P10-1276	:	
For: TIRE PRESSURE MONITORING SYSTEM WITH LOW CURRENT CONSUMPTION	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed November 7, 2003.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 returned to the Office of Initial Patent Examination for further processing.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Jean-Francis Boulot
6 rue Saint Jailh
F-63430 Pont du Chateau
FRANCE

COPY MAILED

NOV 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Boulot	:	
Application No. 10/417,575	:	
Filed: April 17, 2003	:	Letter
Attorney Docket No. P10-1276	:	
For: TIRE PRESSURE MONITORING SYSTEM WITH LOW CURRENT CONSUMPTION	:	

Dear Mr. Boulot:

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: Alan A. Csontos
Michelin North America, Inc.
515 Michelin Road
P.O. Box 2026
Greenville, SC 29602

UNITED STATES 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

Alan A. Csontos
Michelin North America, Inc.
515 Michelin Road
P.O. Box 2026
Greenville, SC 29602

COPY MAILED

OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of	:
Boulot	: DECISION REFUSING
Application No. 10/417,575	: STATUS UNDER
Filed: April 17, 2003	: 37 CFR 1.47(b)
Attorney Docket No. P10-1276	:
For: TIRE PRESSURE MONITORING SYSTEM WITH LOW CURRENT CONSUMPTION	:

This is in response to the petition under 37 CFR 1.47(b), filed August 14, 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) 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).

The declaration is signed by Paul Galley who is a "Member of the Board." However, the record fails to indicate that a member of the board is a party authorized by the corporation to sign such a document. Either an officer of the corporation should sign the declaration or evidence should be submitted that Paul Galley has the authority to sign such a document on behalf of the corporation.

The declaration format presents several difficulties. For example, the address of the assignee is in part of the block for the inventor's signature. The declaration, in addition to the petition, should clearly state that Michelin Recherche Et Technique S.A. is the assignee and the information for the assignee should be moved to a place that does not overlap with the non-signing inventor's information.

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 OF PATENTS

April 6, 2005

Anthony P. Onello, Jr.
Mills & Onello
Eleven Beacon St., Suite 605
Boston, Ma 02108

In re Application of:
Jae-ho Park, et al
Serial No: 10/417,585 On Petition
Filing Date: April 17, 2003
For: **HIGHLY EFFICIENT LCD DRIVING VOLTAGE GENERATING CIRCUIT AND METHOD THEREOF**

In response to the petitions received by fax on September 3, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Corrected Application Papers mailed June 13, 2003.
Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned August 14, 2003. The notice of abandonment was mailed on August 31, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Corrected Application Papers on July 28, 2003.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

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

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 14 2008

OFFICE OF PETITIONS

In re Application of :
Komada :
Application No. 10/417,588 : DECISION ON PETITION
Filed: April 17, 2003 :
Attorney Docket No. CU-6005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned October 20, 2005 for failure to timely submit a proper reply to the Office action mailed July 19, 2005. The Office action set a three month shortened period of time for reply. Notice of Abandonment was mailed February 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (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 Technology Center AU 1773 for appropriate action by the Examiner in the normal course of business on the reply received herewith.

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. 4

ALAN A. CSONTOS
MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE SC 29602

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Jean-Francis Boulot	:	
Application No. 10/417,595	:	DECISION REFUSING STATUS
Filed: 17 April, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. P10-1277	:	

This is in response to the petition filed on 14 August, 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 17 April, 2003, without an executed oath or declaration. Accordingly, on 13 June, 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 14 August, 2003 (certificate of mailing date 12 August, 2003), petitioners filed the present petition, accompanied by a declaration naming Jean-Francis Boulot as the sole inventor and signed on behalf of the non-signing inventor by Paul Galley, Member of the Board of petitioner Michelin Recherche et Technique Ltd. (Michelin). Petitioners have also provided a certification that Mr. Galley is authorized to sign on behalf of petitioner Michelin.

Petitioners assert that a copy of the application was sent to inventor Boulot, but that he refused during a telephone call to sign and return the declaration.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

ALAN A. CSONTOS
MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE SC 29602

COPY MAILED
NOV 20 2003
OFFICE OF PETITIONS

In re Application of	:
Jean-Francis Boulot	:
Application No. 10/417,595	: DECISION ACCORDING STATUS
Filed: 17 April, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. P10-1277	:

This is in response to the renewed petition filed on 7 November, 2003, 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 him as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the employment agreement between the nonsigning inventor and petitioner Michelin Researche et Technique Ltd. (Michelin). 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.

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 2600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

D I 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

Jean-Francis Boulot
6 rue Saint Jailh
F-63430 Pont du Chateu
FRANCE

COPY MAILED
NOV 20 2003
OFFICE OF PETITIONS

In re Application of
Jean-Francis Boulot
Application No. 10/417,595
Filed: 17 April, 2003
For: PRESSURE MEASURING AND INFLATION/DEFLATION CONTROL SYSTEM FOR TIRES

Dear Mr. Boulot:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ALAN A. CSONTOS
MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE SC 29602

UNITED STATES 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

FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Robb and Edgington	: DECISION ACCORDING STATUS
Application No. 10/417,596	: UNDER 37 CFR 1.47(a)
Filed: 17 April 2003	:
Atty Docket No. 78344	:

This is in response to the petition filed under 37 CFR 1.47(a) on 16 December, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented a copy of the application papers. Specifically, petitioners have established, via the declaration of Sally Barber, that a copy of the application was sent to the non-signing inventor, Mark Edgington. However, joint inventor Edgington did not return an executed declaration listing him as a joint inventor along with Eric J. Robb.

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.

It is noted that the declaration filed with the present petition lists a different order of inventors' names than did the unexecuted declaration filed with the original application papers. The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration.[1] Therefore, the order of inventorship has been changed to reflect that order of inventors' names listed on the first declaration submitted in compliance with 37 CFR 1.63. If petitioners desire that the order of names be other than as specified on the declaration filed with the application, a petition under 37 CFR 1.182 to change the order of inventors must be filed, accompanied by the requisite petition fee.

[1] MPEP 605.04(f).

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
dw o1-04

Mark Andrew Edgington
3050 South Loomis St.
Chicago IL 60608

COPY MAILED
JAN 0 8 2004
OFFICE OF PETITIONS

In re Application of
Robb et al.
Application No. 10/417,596
Filed: 16 June, 2003
For: BARRIER MOVEMENT OPERATOR HUMAN INTERFACE METHOD AND APPARATUS

Dear Mr. Edgington:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS LANGER, ESQ.
COHEN, PONTANI, LIEBERMAN & PAVANE
SUITE 1210
551 FIFTH AVENUE
NEW YORK NY 10176

COPY MAILED

APR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Stefan Bader et al	:	
Application No. 10/417,611	:	DECISION GRANTING PETITION
Filed: April 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5367-172	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 7, 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 February 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed ID.

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.*

DOC Code: COCIN

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Ok to enter

/JC/
02/19/2008

PATENT NO. : 6,983,533 B2

APPLICATION NO. : 10/417,624

ISSUE DATE : Jan. 10, 2006

INVENTOR(S) : Martin Wisecarver

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

Column 1
Line 12, after "relate to" change "and" to --an--
Line 30, before "is desirable" insert --it--

Column 2
Line 12, remove [Position based on optical measurement system focus.]
Line 14, change "Z-Camera" to --z-Camera--
Line 36, change "adjust" to --adjusting--
Line 38, change "determine" to --determining--
Line 38, change "adjust" to --adjusting--
Line 39, change "re-verify" to --re-verifying--
Line 39, change "scan" to --scanning--
Line 40, change "subtract" to --subtracting--
Line 41, change "drive" to --driving--
Line 41, change "take" to --taking--
Line 42, change "calculate" to --calculating--
Line 42, change "drive" to --driving--
Line 43, change "release" to --releasing--

Column 3
Line 53, change "8a" to --8A--

Column 4
Line 1, before "are generally" insert --and--
Line 13, remove [actuators]
Line 46, after "fixture support" remove [member]
Line 47, change "200" to --202--
Line 50, change both instances of "Z" to --z--
Line 52, change "Z" to --z--

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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.

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **6,983,533 B2**

APPLICATION NO. : **10/417,624**

ISSUE DATE : **Jan. 10, 2006**

INVENTOR(S) : **Martin Wisecarver**

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

Column 4
Line 53, change "Z" to --z--
Line 55, change "Z" to --z--
Line 57, change "Z" to --z--
Line 60, change "Z" to --z--

Column 5
Line 1, change "Z" to --z--
Line 14, change "X" to --x--
Line 17, change "actuators" to --actuator-
Line 18, change "X" to --x--
Line 19, change "actuators" to --actuator--
Line 20, change "Y" to --y--
Line 35, remove [was]
Line 53, change "unit" to --tool--
Line 62, change "205" to --207--

Column 6
Line 14, change "pivotally mounted arm 309" to --pivot mount 305--
Line 17, change "members" to --member--
Lines 17 and 18, change "members 308 are" to --member 308 is--
Line 19, before "pivot mount" change "a" to --the--
Line 27, change "mounts" to --mount--
Line 40, after "component" insert --404--
Line 47, change "supports" to --support--

Column 8
Line 9, after "latches" insert --702--
Line 14, change "threadebly" to --threadably--

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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.

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,983,533 B2

APPLICATION NO. : 10/417,624

ISSUE DATE : Jan. 10, 2006

INVENTOR(S) : Martin Wisecarver

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

Column 8
Line 26, after "Screw actuator" insert --801--
Line 27, change "threadebly" to --threadably--
Line 35, change "threadebly" to --threadably--
Line 36, after "screw actuator" insert --801--

Column 9
Line 12, change "8a" to --8A--
Line 14, change "8a" to --8A--
Line 27, change "8a" to --8A--
Line 30, change "8a" to --8A--
Line 38, change "801" to --830--
Line 57, change "803 and 804" to --833 and 834--
Line 58, change "8a illustrate" to --8A illustrates--
Line 62, change "803" to --833--
Line 65, change "803" to --833--
Line 66, change "Z" to --z--
Line 67, change "Z" to --z--

Column 10
Line 2, change "Z" to --z--
Line 2, change "804" to --834--
Line 4, before "initialization" change "and" to --an--
Line 22, remove [that]
Line 23, change "805" to --835--
Line 42, change "805" to --835--
Line 43, change "806" to --836--
Line 46, change "807". At step 807" to --837. At step 837--
Line 55, remove [that method]

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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.

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,983,533 B2

APPLICATION NO. : 10/417,624

ISSUE DATE : Jan. 10, 2006

INVENTOR(S) : Martin Wisecarver

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

Column 10
Line 58, change "that method" to --the--
Line 62, change "806" to --836--

Column 11
Line 1, change "808" to --838--
Line 2, change "809. The" to --839--
Line 2, change "808 and 809" to --838 and 839--
Line 31, change "corresponds" to --correspond--
Line 32, after "at the location" change "or" to --where--
Line 50, change "8a" to --8A--
Line 67, change "810" to --840--

Column 12
Line 36, remove [or machine 0 axis]
Line 38, change "to admitting" to --emitting--
Line 42, change "away" to --way--
Line 43, change "0" to --zero--
Line 51, change "906" to --913--
Line 56, remove [all]
Line 56, remove [10]

Column 13
Line 10, before "important" remove [an]
Line 15, after "focal point" remove [to]
Line 17, change "when the" to --will no--
Line 28, after "offset" remove [the]
Line 29, change "then the two focal point" to --than the two focal points--
Line 56, change "insure" to --ensure--
Line 62, after "follow" insert --.--

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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.

DOC Code: COCIN

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
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **6,983,533 B2**

APPLICATION NO. : **10/417,624**

ISSUE DATE : **Jan. 10, 2006**

INVENTOR(S) : **Martin Wisecarver**

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

Column 14
Line 16, change "threadebly" to --threadably--
Line 20 change "in" to --is--
Line 30, after "configured" insert --to--
Line 57, change "threadebly" to --threadably--
Line 60, change "threadebly" to --threadably--

Column 15
Line 5, after "configured" insert --to--

Column 16
Line 16, change "threadebly" to --threadably--

MAILING ADDRESS OF SENDER (Please do not use customer number

R. Burns Israelsen, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Matthias Dietrich	: DECISION ON REQUEST FOR
Patent Number	: 7570644	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/417,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1401** 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. 5

COPY MAILED
DEC 04 2003
OFFICE OF PETITIONS

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

In re Application of :
Julian P. Trangsrud :
Application No. 10/417,637 : DECISION ON PETITION
Filed: April 17, 2003 :
Attorney Docket No.: 20020097.CPP :
Title: CAGE SPACER :

This is a decision on the petition filed on October 27, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[2];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

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

2 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(f) is set forth in 37 C.F.R. §1.17(m) as being one thousand, three-hundred and thirty dollars ($1,330.00) for a large entity and six hundred and sixty-five dollars ($655.00) for a small entity. Although Petitioner included a check with his petition, the account contained insufficient funds. Therefore, requirement number (2) has not been met.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[3]

In view of the foregoing, this 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(f)." Petitioner must submit the requisite fees before this matter may be decided.

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6]. **Please note that the later two have changed, as of December 1, 2003.**

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

---

[3] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

6 (703) 872-9306.

UNITED STATES 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

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

COPY MAILED

JAN 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Julian P. Trangsrud	:	
Application No. 10/417,637	:	DECISION ON RENEWED PETITION
Filed: April 17, 2003	:	UNDER 37 C.F.R. §1.137(F)
Attorney Docket No.: 20020097.CPP	:	
Title: CAGE SPACER	:	

This is a decision on the renewed petition filed on January 7, 2004, pursuant to 37 C.F.R. §1.137(f)[1], to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[2];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The original petition, filed on October 27, 2003, was dismissed via the mailing of a decision on December 4, 2003, for failure to include the petition fee.

With the renewed petition, petitioner has included the required petition fee.

In the original petition, filed with the Office on October 27, 2003, Petitioner states that the

1 The decision on the original erroneously identified the original petition as being filed under 37 C.F.R. §1.137(b).
2 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

instant nonprovisional application is the subject of an application filed in either a foreign country or under a multinational agreement. Unfortunately, notification of the filing of the foreign or international application did not accompany this filing.

As such, petitioner has not met the first requirement above.

In view of the foregoing, this 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 "Second Renewed Petition under 37 CFR 1.137(f)." Petitioner must submit the date which the foreign or international application was filed.

Petitioner is reminded that if an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made, and any petition fee would be refunded.

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
5 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

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

COPY MAILED

FEB 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Julian P. Trangsrud	:	
Application No. 10/417,637	:	DECISION ON SECOND RENEWED
Filed: April 17, 2003	:	PETITION UNDER 37 C.F.R. §1.137(F)
Attorney Docket No.: 20020097.CPP	:	
Title: CAGE SPACER	:	

This is a decision on the second renewed petition filed on January 26, 2004, pursuant to 37 C.F.R. §1.137(f)[1], to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[2];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The original petition, filed on October 27, 2003, was dismissed via the mailing of a decision on December 4, 2003, for failure to include the petition fee.

On January 7, 2004, the renewed petition was filed, along with the petition fee. Unfortunately, notification of the filing of the foreign or international application did not accompany this filing. As such, the renewed petition was dismissed via the mailing of a decision on January 14, 2004.

1 The decision on the original erroneously identified the original petition as being filed under 37 C.F.R. §1.137(b).
2 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

With the second renewed petition, Petitioner has made it clear that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on August 14, 2003. However, the United States 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. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

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

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 13, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/417,637	04/17/2003	Julian P. Trangsrud	20020097.CPP

CONFIRMATION NO. 8897

OC000000011850398

23595
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

Date Mailed: 02/06/2004

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 05/13/2004.

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 (703) 305-9282. 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

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

Paper No. 5

COPY MAILED
AUG 29 2003
OFFICE OF PETITIONS

Wendy W. Koba
PO Box 556
Springtown, PA 18081

In re Application of:
Weiner et al
Application No. 10/417,641
Filed: April 17, 2003
Title of Invention:
PLAY CUBE TO AID IN RECOGNIZING AND DEVELOPING VARIOUS EMOTIONAL STATES

ON PETITION

This is in response to a petition under 37 CFR 1.47(a), filed July 30, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 17, 2003, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on June 16, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant wherein Petitioner avers that, despite reasonable and diligent effort to contact the nonsigning inventor, the nonsigning inventor refuses to acknowledge receipt of the application papers and to execute the necessary Declaration and Assignment.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with

the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

Applicant lacks item (1) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

MPEP 409.03(d).

While the petition avers that the nonsigning inventor refuses to acknowledge receipt of the application papers, the petition does not aver that the application (specification, claims and drawings) was sent to the nonsigning inventor. Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application be sent to the last known address of the nonsigning inventor or her legal representative. See, MPEP 409.03(e).

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) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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

Wendy W. Koba
PO Box 556
Springtown, PA 18081

In re Application of:
Weiner et al.
Application No. 10/417,641
Filed: April 17, 2003
Title of Invention:
PLAY CUBE TO AID IN RECOGNIZING AND DEVELOPING VARIOUS EMOTIONAL STATES

ON PETITION

COPY MAILED
NOV 03 2003
OFFICE OF PETITIONS

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed via facsimile on October 28, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **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, Lisa Pretecrum, cannot be found or reached after diligent effort.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LISA PRETECRUM
272 WEST COURT STREET
DOYLESTOWN, PA 18901

In re Application of:	:	
Weiner et al.	:	LETTER
Application No. 10/417,641	:	
Filed: April 17, 2003	:	COPY MAILED
Title of Invention:	:	
PLAY CUBE TO AID IN RECOGNIZING	:	NOV 03 2003
AND DEVELOPING VARIOUS EMOTIONAL	:	
STATES	:	OFFICE OF PETITIONS

Dear Ms. Pretecrum:

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: Wendy W. Koba
PO Box 556
Springtown, PA 18081

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wendy W. Koba
PO Box 556
Springtown, PA 18081

In re Application of:	:	
Weiner et al.	:	ON PETITION
Application No. 10/417,641	:	
Filed: April 17, 2003	:	COPY MAILED
Title of Invention:	:	
PLAY CUBE TO AID IN RECOGNIZING	:	FEB 09 2005
AND DEVELOPING VARIOUS EMOTIONAL	:	
STATES	:	OFFICE OF PETITIONS

This is in response to a Petition under 37 CFR 1.47(a), filed January 19, 2005, "to allow for the Assignment agreement to [] be recorded against the nonsigning inventor []." The petition is properly treated under 37 CFR 1.182.

Applicant is advised the a petition under 37 CFR 1.47 provides for the following two scenarios: (1) to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s), and (2) 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, therefore, dismissed as inappropriate.

Applicant files the instant petition requesting that this Office "allow this application to be assigned by inventors []Goodnam Weiner, []Jacobson, []Evans Strauss and []Russeck on behalf of themselves and Nonsigning inventor []."

Applicant is advised that this Office maintains no jurisdiction over the assignment of rights. As Applicant, a registered practitioner and attorney is aware, an assignment is an act of transferring to another the ownership of one's property. The MPEP provides that

> [e]ach individual inventor may only assign the interest he or she holds; thus assignment by one joint inventor renders the assignee a partial assignee . A partial assignee likewise may only assign the interest

> it holds; thus, assignment, by a partial assignee renders a subsequent assignee a partial assignee. All parties having any portion of the ownership in the patent property must act together as a composite entity in patent matters before the Office.

MPEP 301.

This Office has no authority to "allow this application to be assigned" to anyone. This Office records assignments. *See* 37 CFR 3.11. Issues involving ownership of property are properly addressed in the courts.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Miomir B. Djordjevic	:	
Application No. 10/417,643	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No.: 290050.90685	:	

This is a decision on the petition filed April 7, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 4, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 7, 2006. Accordingly, the Notice of Abandonment was mailed September 27, 2005.

This matter is being referred to Technology Center 2878 for appropriate action on the amendment filed April 7, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of

Nagel, et al. :

Application No. 10/417,657

: DECISION ON PETITION

Filed: April 17, 2003

:

Attorney Docket No. 9005/15

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 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 21, 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 22, 2005. A Notice of Abandonment was mailed on November 17, 2005.

The amendment filed March 14, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3663 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Christel-Loic Tisse	: DECISION ON REQUEST FOR
Patent Number	: 7609861	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/417,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1895** 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

Coole Godward LLP
Attn: Patent Group
Five Palo Alto Square
3000 E! Camino Real
Palo Alto, CA 94306-2155

COPY MAILED

OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephen J. Keating et al.	:	
Application No. 10/417,712	:	DECISION ON PETITION
Filed: April 16, 2006	:	TO WITHDRAW
Attorney Docket No. SIMG.P0125	:	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 16, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 23419 has been revoked by the assignee of the patent application on October 16, 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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Silicon/Blakely**
Blakely Sokoloff Taylor Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

UNITED STATES 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 D. Fish
Rutan & Tucker
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626

MAILED

JUN 2 1 2004

Director's Office
Group 3700

In re application of John W. Addink	: : :	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/417722 Filed: April 16, 2003	: :	

For: **DEVICE THAT MODIFIES IRRIGATION SCHEDULES OF EXISTING IRRIGATION CONTROLLERS**

This is a decision on the petition filed on April 16, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 6/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VINSON & ELKINS L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

COPY MAILED

DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
Timothy C. Thompson, et al. :
Application No. 10/417,727 : ON PETITION
Filed: April 17, 2003 :
Attorney Docket No. PRO025/4-7DIVUS :

This is a decision on the petition under 37 CFR 1.137(b), filed September 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 17, 2007. On September 5, 2007, the present petition was filed. 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). It is noted that a Notice of Abandonment was subsequently mailed on November 29, 2007.

The petition is not signed by an attorney or agent of record in the application. However, in accordance with 37 CFR 1.34(a), the signature of Timothy S. Corder 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.

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, including the fee of $395; (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.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $285 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being referred to Technology Center AU 1642 for further processing of the RCE filed September 5, 2007 in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 15 2010

OFFICE OF PETITIONS

K&L GATES LLP
PO BOX 1135
CHICAGO IL 60690

In re Application of	:	
Walker, et al.	:	
Application No. 10/417,733	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. 3718582-00059	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed January 4, 2010.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed June 24, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 17, 2009, made timely by obtaining a three month extension of time. However, the Amendment was not entered because it failed to place the application in condition for allowance. No further proper reply with an extension of time having been received, the application became abandoned on December 25, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3714 for consideration of the RCE, filed January 4, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Finnegan, Henderson, Farabow,
Garrett & Dunner LLP
901 New York Avenue, NW
Washington DC 20001-4413

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,888,625 Duwayne R. Anderson Issue Date: May 3, 2005 Application No. 10/417,742 Filed: April 16, 2003 Attorney Docket No. 9314/0026	:	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. § 1.705(b)" received in the Office on June 13, 2005. Patentees request recalculation of the Patent Term Adjustment in the above-identified patent. Patentees request that the patent term adjustment indicated on the patent be corrected from zero **(0)** to fifty-nine **(59)** days.

The request for reconsideration of the Patent Term Adjustment (PTA) indicated on the patent is **dismissed**.

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

On May 3, 2005, the application matured into U.S. Patent No. 6,888,625, with a revised patent term adjustment of 0 days. On June 13, 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 59 days.

Patentee disputes the reduction of 120 days associated with the filing of an IDS on November 1, 2004. On September 10, 2004, the International Searching Authority issued International Search Report in the corresponding PCT Application No. PCT/US04/011675. Patentee acknowledges filing an Information Disclosure Statement (IDS) on November 1, 2004, 52 days after receiving the International Search Report. Patentee acknowledges that the IDS was filed after the mailing of the notice of allowance and did not include a § 1.704(d) statement. Thus, the dispute is to the amount of reduction warranted for this applicant delay.

Patentee is incorrect in his calculation of the patent term adjustment. 37 CFR § 1.704(c)(10) provides that:

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

In this instance, it is undisputed that the IDS was filed after the mailing of the Notice of Allowance. A response to the IDS was mailed on March 29, 2005, 129 days later. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by the lesser period of 120 days.

In view thereof, it is concluded that the patent properly issued with a revised Patent Term Adjustment of zero (0) days.

Receipt is acknowledged of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery Fries

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

#7
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT – 6 2004

MAILED
OCT – 6 2004
OFFICE OF THE DIRECTOR
TC 3600

D.A.N. Chase
Chase Law Firm, L.C.
Suite 130
4400 College Boulevard
Overland Park, KS 66211

In re Application of
Anthony L. Lucas
Application No. 10/417,744
Filed: April 17, 2003
For: RAILWAY CAR OUTLET GATE ASSEMBLY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 14, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed April 29, 2004 because of applicant's failure to reply to the non-final Office action of September 15, 2003.

Petitioner states that a response was filed by mail on January 15, 2004. The copy of the response submitted with the petition includes a Postcard receipt dated January 22, 2004 and a signed Certificate of Mailing dated January 15, 2004. Since a one month extension of time requires a file date no later than January 15, 2004 applicant cannot rely on the Postcard receipt and must rely on the Certificate of Mailing dated January 15, 2004 for the petition to withdraw the holding of abandonment.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the

original response by mail on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

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

RAR/vdb: 10/4/04

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTORS OFFICE
MAY 09 2006
TECHNOLOGY CENTER 3600

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

D.A.N. Chase
Chase Law Firm, L.C.
Suite 130
4400 College Boulevard
Overland Park, KS 66211

In re Application of Anthony L. Lucas Application No. 10/417,744 Filed: April 17, 2003 For: RAILWAY CAR OUTLET GATE ASSEMBLY	**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

This is a decision on the renewed Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on November 8, 2004. The delay in deciding this petition is regretted.

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 January 15, 2004, 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 withdrawal of the abandonment and then to the examiner for prompt action.

RAR;05/09/06

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD, CT 06905

COPY MAILED

MAY 0 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Walker, et al. :
Application No. 10/417,758 :
Filed: April 16, 2003 :
Attorney Docket No. 02-017

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

The petition is **GRANTED.**

The above-cited application was filed on April 16, 2003. On March 23, 2005, a final Office action was mailed allowing a shortened statutory period for reply of three months from its mailing date. On June 27, 2005 (certificate of mailing dated June 23, 2005), applicant filed a Notice of Appeal triggering a two month period in which to file an appeal brief, pursuant to 37 CFR 41.37[1]. It is noted that 37 CFR 41.37(e) provides that extensions of the time to file the appeal brief are available to 37 CFR 1.136(a). Pursuant to 37 CFR 1.136(a), the period for filing an appeal brief, or other appropriate action, is extendable five-months after the two-month period prescribed by the rules because the period for filing the appeal brief is nonstatutory. On January 26, 2006, a Request for Continued Examination was filed with a request for an extension of time within the fifth month. The record reflects that a Notice of Abandonment was mailed on January 24, 2 006, prior to the expiration of the maximum extendable period for reply.

The instant petition was then filed on March 29, 2006. Petitioner argues that the abandonment was unavoidable as a timely and proper action was filed following the Notice of Appeal. Petitioner's argument is persuasive in light of the petition and review of the application file. The petition is granted, accordingly.

Petitioner's request for a refund of the petition fee is noted, but cannot be granted. To remedy a situation such as the one presented, petitioner had the option of filing a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181 for which there is no fee. Notwithstanding, petitioner elected to file a petition under 37 CFR 1.137(a) for which there is a $500.00 petition fee required to be paid before the petition is treated on its merits and is not refunded no matter the disposition of the petition. As the instant petition was filed under 37 CFR 1.137(a) and was treated on its merits, a refund of the petition fee would not be appropriate.

The file is now being forwarded to Technology Center 3700, GAU 3713 for further processing.

---

[1] 37 CFR 41.37(a)(1) provides that the appeal brief must be filed within two months from the date of the filing of the notice of appeal. For purposes of this decision, the filing date of appeal brief is considered to be June 27, 2005, not the mailing date of June 23, 2005.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

COPY MAILED
APR 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Collins et al.	:	
Application No. 10/417,761	:	DECISION ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. MIK/03U	:	

This is a decision on the petition filed December 1, 2005, to withdraw the holding of abandonment or in the alternative, a petition under 37 CFR 1.137(a). The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On April 29, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely and proper reply, the application became abandoned on July 30, 2005. On November 22, 2005, the Office mailed a Notice of Abandonment. On December 1, 2005, petitioner filed the present petition.

In the petition, petitioner asserted that petitioner submitted a timely response in the form of an Amendment on July 5, 2005, by facsimile transmission. A copy of the Amendment and the Facsimile Cover Sheet, containing certificates of facsimile transmissions of July 5, 2005, accompany the present petition.

DISCUSSION

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

The Examiner has reviewed the Amendment of December 1, 2005 (certificate of facsimile transmission dated July 5, 2005), in response to the final Office action and has issued an Advisory Action Before the Filing of an Appeal Brief, which is enclosed. As stated in the Advisory Action, the Examiner has concluded that the Amendment failed to place this application in condition for allowance. For this reason, there is no dispute that the application is abandoned for failure to submit a proper reply to the final Office action. Accordingly, the Office is treating the petition as a petition to revive under 37 CFR 1.137(a).

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).[1] 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, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[3] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is regrettable that the Office did not mail an Advisory Action until after the six month statutory period ran; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Advisory Action.[4] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the expiration of the time period for reply to the final Office action and not because the amendment was misplaced by the Office or a delay in the mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office.

---

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

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

[3] See 37 CFR 1.116.

[4] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

CONCLUSION

Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Accordingly, the petition under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision. The request should be entitled "Renewed Petition under 37 CFR 1.137(a)." Any extensions of time will be governed by 37 CFR 1.136(a).

The current fee for filing a petition under 37 CFR 1.137(a) is $250.00 for a small entity. Therefore, the Office will charge this amount to the Deposit Account, as provided by the general authorization in the Utility Patent Application Transmittal.

ALTERNATIVE VENUE

The Office strongly encourages petitioner to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(2) The petition fee as set forth in 1.17(m); and,

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

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

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

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief (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
www.uspto.gov

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

COPY MAILED
DEC 20 2006
OFFICE OF PETITIONS

In re Application of	:	
Collins et al.	:	
Application No. 10/417,761	:	DECISION ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. MIK/03U	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, to revive the above-identified application.

On April 29, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the absence of a proper reply, the Office mailed a Notice of Abandonment on November 22, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and an amendment, paid the requisite fees, and made the proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **granted.**

This matter is being referred to Technology Center Art Unit 3635.

Telephone inquiries 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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 18 2004

MAILED

MAY 18 2004

OFFICE OF THE DIRECTOR
TC 3600

Robert W. Usher
1133 Broadway, #1515
New York, NY 10010

In re application of Achille A. De Lucia Application No. 10/417,777 Filed: April 15, 2003 For: UNIVERSAL PORTABLE BRAKE PEDAL LOCKING DEVICE FOR VEHICLES	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 24, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.
The petition is **GRANTED**.

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

The evidence submitted with the petition is a statement from the applicant and a copy of applicant's birth certificate indicating 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/vdb: 5/10/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG - 2 2009

MAILED

AUG 2 2004

OFFICE OF THE DIRECTOR
TC 3600

ROBERT W. J. USHER
PATENT AGENT
1133 Broadway, #1515
New York, NY 10010

In re application of
Achille A. De Lucia
Application No. 10/417,777
Filed: April 15, 2003
For: UNIVERSAL PORTABLE BRAKE PEDAL LOCKING DEVICE FOR VEHICLES

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

This is a decision on the petition submitted on April 15, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a copy of a birth certificate for Mr. De Luca indicating that he is at least 65 years of age.

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

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

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

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

SNM/pav: 7/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

FEB 08 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Tooher	:	
Application No. 10/417,791	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. 5957-22800	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 21, 2005, 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 May 17, 2005. A Notice of Abandonment was mailed October 21, 2005.

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

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

Since petitioner failed to comply with the requirements of 37 CFR 3.73(b), the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed August 16, 2005 has not been accepted. However, 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. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of

this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

cc: HOWARD A. SKAIST
BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE - SUITE 240
BEAVERTON, OR 97006

PART B - FEE(S) TRANSMITTAL

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

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

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

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

Certificate of Mailing or Transmission

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

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

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

TITLE OF INVENTION:

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

EXAMINER	ART UNIT	CLASS-SUBCLASS

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

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

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

2. For printing on the patent front page, list

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

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

1 _____

2 _____

3 _____

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

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

(A) NAME OF ASSIGNEE

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

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

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

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

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

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

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

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

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 06/07/2010

Applicant	: Henry Haverinen	: DECISION ON REQUEST FOR
Patent Number	: 7633953	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/417,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1996** 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

MAILED

JAN 13 2010

OFFICE OF PETITIONS

OLYMPIC PATENT WORKS PLLC
PO BOX 4277
SEATTLE WA 98104

In re Application of	:	
Sky Kruse	:	DECISION ON PETITION
Application No. 10/417,803	:	
Filed: April 16, 2003	:	
Attorney Docket No. 35016.002	:	

This is a decision on the petition filed November 13, 2009, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on July 11, 2007. No Appeal Brief having been filed, the application became abandoned on September 12, 2007. The Office mailed a Notice of Abandonment on February 20, 2008.

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

The matter is being forwarded to Group Art Unit 2136 for consideration of the Appeal Brief, filed November 13, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

In re Application of	:
Selgas, et al.	: DECISION REFUSING STATUS
Application No. 10/417,821	: UNDER 37 CFR 1.47(a)
Filed: April 16, 2003	:
Atty. Dkt. No.: MMAIL 1532006	:
For: MODIFICATION OF THE HIDDEN	:
LOG-IN-DATA	:

This decision is in response to the petition under 37 CFR 1.47(a), filed January 18, 2005.

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).

It is noted that the instant application is a divisional of U.S. App. No. 09/100,619. Petitioners are reminded that a newly executed oath or declaration and/or petition under 37 CFR 1.47 is unnecessary if a declaration compliant with 37 CFR 1.63(d) is available.

The above-identified application was filed April 16, 2003 with a copy of an executed oath or declaration. Presumably, this declaration related to provisional application No. 60/050,186.

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.

As to item (1), the petition and supporting documents allege the non-signing inventors received application papers and thereafter refused to execute the declaration.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor at the inventor's last known address, typically a residential address. Herein, it appears that the application papers for the instant application were sent to each inventor at a business address.

Petitioners have asserted that the last known address for each of the non-signing inventors is the business address set forth in the supporting declaration submitted with the instant petition. As last known address typically refers to a residential address, the Office is relying on petitioner's duty of good faith and candor in accepting that the last known address of each inventor is as set forth in the supporting declaration. If, however, further review of the matter reveals a more current last known address, such should be set forth in any renewed petition.

Any renewed petition should reassert the last known address of the non-signing inventors and set forth the manner in which the application papers were presented to each inventor at their last known address along with details of any refusal to execute the declaration.

As to item (2), petitioners have failed to present a declaration in accordance with 37 CFR 1.63. Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

As to item (4), petitioners have set forth a business address as the last known address of the non-signing inventors. In accordance with MPEP 409.03(e), the last known address of an inventor is the address at which an inventor customarily receives mail. Such address is ordinarily the last known residence of an inventor. Petitioners are required to indicate whether a last known residential address is available for each inventor and provide such in either the declaration and/or application data sheet upon renewed petition. See, MPEP 605.03.

Additionally, petitioners have failed to submit the required surcharge for late submission of a proper 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) 872-9306

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of	:
Selgas, et al.	: DECISION REFUSING STATUS
Application No. 10/417,821	: UNDER 37 CFR 1.47(a)
Filed: April 16, 2003	:
Atty. Dkt. No.: MMAIL 1532006	:
For: MODIFICATION OF THE HIDDEN	:
LOG-IN-DATA	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 5, 2005.

The petition is **DISMISSED AS MOOT**.

The instant petition under 37 CFR 1.47 was submitted in connection with an affidavit filed pursuant to 37 CFR 1.131. As petitions under 37 CFR 1.47 are only applicable to newly executed oaths or declarations, consideration under 37 CFR 1.47 is inappropriate as the instant application was submitted with a properly executed declaration in compliance with 37 CFR 1.63.

Petitioners herein assert that all of the inventors named in the application are not available to sign an affidavit under 37 CFR 1.131. An affidavit under 37 CFR 1.131 may be signed by the inventor(s) and, where appropriate, the assignee. *See*, MPEP 715.04.

This application is being forwarded to the Technology Center for consideration by the Group Director of the submission under § 1.131 as per MPEP 1002.02(c)(3)(d).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of	:
Selgas, et al.	: DECISION REFUSING STATUS
Application No. 10/417,821	: UNDER 37 CFR 1.47(a)
Filed: April 16, 2003	:
Atty. Dkt. No.: MMAIL 1532006	:
For: MODIFICATION OF THE HIDDEN	:
LOG-IN-DATA	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 5, 2005.

The petition is **DISMISSED AS MOOT**.

The instant petition under 37 CFR 1.47 was submitted in connection with an affidavit filed pursuant to 37 CFR 1.131. As petitions under 37 CFR 1.47 are only applicable to newly executed oaths or declarations, consideration under 37 CFR 1.47 is inappropriate as the instant application was submitted with a properly executed declaration in compliance with 37 CFR 1.63.

Petitioners herein assert that all of the inventors named in the application are not available to sign an affidavit under 37 CFR 1.131. An affidavit under 37 CFR 1.131 may be signed by the inventor(s) and, where appropriate, the assignee. *See*, MPEP 715.04.

This application is being forwarded to the Technology Center for consideration by the Group Director of the submission under § 1.131 as per MPEP 1002.02(c)(3)(d).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

COPY MAILED

SEP 14 2005

OFFICE OF PETITIONS

In re Application of
Selgas, et al.
Application No. 10/417,821
Filed: April 16, 2003
Atty. Dkt. No.: MMAIL 1532006
For: MODIFICATION OF THE HIDDEN LOG-IN-DATA

DECISION ON PETITIONS UNDER 37 CFR 1.47 and 37 CFR 1.183

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed July 11, 2005. This matter is also being treated under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

Petitioners seek to submit a declaration under 37 CFR 1.131, but state that all of the inventors are not available to execute the declaration.

DECISION UNDER 37 CFR 1.47

The provisions of 37 CFR 1.47 (and a petition there under) are only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. The instant case contains a properly executed declaration under 37 CFR 1.63. See MPEP 201.03(b); 409.03.

Accordingly, the petition under 37 CFR 1.47 is hereby DISMISSED AS MOOT.

Petitioner may request a refund of the previously submitted $200.00 petition fee. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n 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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Pursuant to the provisions of 37 CFR 1.183, petitioners seek to waive the requirements of 37 CFR 1.131 and submit a declaration under 37 CFR 1.131 without the signature of all the named inventors.

The provisions of 37 CFR 1.131 provide that "[w]hen any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based."

The instant application is not subject to reexamination nor has the application previously been accorded status under 37 CFR 1.47. Accordingly, the inventors of the application must execute the Rule 1.131 declaration.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that the non-signing inventors sign the Rule 1.131 declaration, petitioners must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners have established that bona fide effort has been made to locate the non-signing inventors who are either unavailable or cannot be located. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

Accordingly, the 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The required petition fee of $400.00 has been charged to petitioners' deposit account as authorized.

The application file is being forwarded to Technology Center 2100 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

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

Thomas Drennan Selgas c/o CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

In re Application of: Thomas SELGAS, et al.
Application No. 10/417,821
Filed: Sept 20, 2007
Atty. Docket No MMAIL 1532006
Title: MODIFICATION OF THE HIDDEN LOG-IN-DATA

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

This is a decision on the petition filed Feb 26, 2010 to the Office of General Counsel of the U.S. Patent and Trademark Office, hereby treated under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and request the Examiner to advance prosecution of the instant application without further undue delays.

The petition is **DISMISSED as MOOT**

MPEP § 706.07(I) states in part that:

> An application should ***not be allowed, unless and until issues pertinent to patentability have been raised and resolved in the course of examination and prosecution***, since otherwise the resultant patent would not justify the statutory presumption of validity (35 U.S.C. 282), nor would it "strictly adhere" to the requirements laid down by Congress in the 1952 Act as interpreted by the Supreme Court. The standard to be applied in all cases is the "preponderance of the evidence" test. In other words, *an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable.*

MPEP § 706.07(a) states in part that:

> Under present practice, second or any subsequent action on the merits shall be made final, **except** where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

MPEP § 706.07(d) states in part that:

> If, **on request by applicant for reconsideration,** the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

Once the finality of the Office action has been withdrawn, the next Office action may be made final if the conditions set forth in MPEP § 706.07(a) are met.

MPEP § 1201 states, in part:

> ...the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).
>
> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

37 CFR 41.31 (a) states: .

> Every applicant, any of whose **claims has been twice rejected, may appeal from the decision of the examiner to the Board** by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under § 1.134 of this title for reply35 U.S.C. 134 Appeal to the Board of Patent Appeals and Interferences.

37 C.F.R. § 1.181(f) states, in part:

> .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...

A review of the prosecution history in the instant application indicates:

> Following the Final Office action of Sep 3, 2009; an interview summary was held on Oct 07, 2009 (interview held Oct 7, 2009), no agreement or resolution was indicated in the summary.
>
> On Feb 26, 2010, five (5) months from the Final action, the instant petition was filed; the petition discusses the disagreements on the manner in which claims 1, 3 and 5 are rejected over the U.S. Patent no 6,058,250 to Hardwood relating to 1) whether Hardwood teaches the limitations of the rejected claim and 2) propriety of the delay in discovery of the Hardwood reference. Thus, it is apparent that the art rejection of Hardwood would remains until issues pertinent to patentability have been raised and resolved in the course of examination and thus such disagreements regarding claim interpretation and rejection are **appealable, not a petitionable matter.**
>
> On Mar 4, 2010, a Notice of Appeal and Amendment were filed. On May 4, 2010, an **Appeal Brief** was filed.

In light of the discussion above and the filing of the Appeal Brief on May 4, 2010, the petition is **DISMISSED as MOOT.**

The application will be forwarded to the examiner for consideration of the amendment filed Mar 4, 2010 and Appeal Brief filed May 4, 2010.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 242-4147.

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

A. Burgess Lowe
101 East Maple Street.
North Canton OH 44720

COPY MAILED

DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
David M. Allgeier :
Application No. 10/417,822 :
Filed: April 17, 2003 :
Attorney Docket Number: 2651 :
Title: FILTER ASSEMBLY FOR A :
VACUUM CLEANER :

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

This is a decision on the petition filed on August 3, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 14, 2005, 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 October 15, 2005. A notice of abandonment was mailed on March 1, 2006.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

---

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.

As such, the petition 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 amendment, which was received with the present petition, can be processed.

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. 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 the delay was intentional, petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

---

2 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).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

cc: Mark L. Weber
First National Tower, Fourth Floor
Akron, Ohio 44308

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER PA 15069-0001

COPY MAILED

SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Kilmer :
Application No. 10/417,830 : ON PETITION
Filed: April 17, 2003 :
Attorney Docket No. 02-1163 :
For: ULTRA-LONGLIFE, HIGH
FORMABILITY BRAZING SHEET

This is a decision on the petition under 37 CFR 1.137(b), filed on April 17, 2006 to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed August 19, 2005, which set an extendable three month period for reply. Applicant submitted a two month extension of time and an amendment after final on January 19, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 28, 2006 Advisory action. Accordingly, this application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on March 8, 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 August 19, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 19, 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 1775 for consideration of the RCE filed on April 17, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 27 2007

OFFICE OF PETITIONS

MORRIS, MANNING & MARTIN
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, N.E.
ATLANTA GA 30326-1044

In re Patent No. 6,858,157	:	
Issue Date: February 22, 2005	:	
Application No. 10/417,842	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 60063.0020US01	:	

This is a decision on the petition filed October 9, 2006, which is being treated 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.

The required fee ($100), for the Certificate of Correction is being charged to deposit account no. 50-3537 as authorized.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

COPY MAILED
MAY 0 4 2005
OFFICE OF PETITIONS

In re Application of :
Thomas Drennan Selgas et al. :
Application No. 10/417,853 : ON PETITION
Filed: April 16, 2003 :
Attorney Docket No: MMAIL 1532004

This is a decision on the petition under 37 CFR 1.47(a) filed January 13, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.131 where it requires that an affidavit be executed by the named inventors.[1]

The petition is **GRANTED.**

In view of the efforts recounted in the petition to obtain the signatures of joint inventors Michael Brian Massing and John Everett Gmuender, it is agreed that justice would be served by waiving the requirement for their signatures on the 37 CFR 1.131 affidavit filed January 13, 2005.

The aforementioned affidavit has been accepted, on petition, and placed in the file.

It should be noted however, that effective November 22, 2004, the fee for a petition to waive the rules has been increased to $400.00. Therein, deposit account no. 50-0605 has been charged in the amount of $200.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(f). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to Technology Center 2145.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

COPY MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Selgas et al.	:	
Application No. 10/417,853	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. MMAIL 1532004	:	

This is a decision on the petition, filed March 19, 2009, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent *infra*.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventor Selgas has agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to October 23, 1996.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Massing and Gmuender to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2445 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3215. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. *See* MPEP 715.04(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

Courtney J. Miller
Calfee, Halter & Griswold LLP
1100 Fifth Third Center
21 East State Street
Columbus OH 43215

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Francis J. Martin, et al.	:	
Application No. 10/417,859	:	DECISION ON PETITION
Filed: February 10, 2006	:	TO WITHDRAW
Attorney Docket No. 28217/04004	:	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 February 10, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Joan N. Drew does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Joan N. Drew
McNees, Wallace & Nurick LLC
21 E. State Street
17th Floor
Columbus, OH 43215-4228

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LAW FIRM, L.L.P.
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

In re Application of
Selgas, et al.
Application No. 10/417,862
Filed: April 16, 2003
Attorney Docket No. MMAIL 1532007

DECISION
ON PETITION
37 CFR 1.47

This is a decision on the petition filed January 14, 2005, under 37 CFR 1.47(a).

The petition is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.47(a) has been proffered due to the inability to obtain the signature of two of the named inventors on a declaration filed under 37 CFR 1.131.

However, 37 CFR 1.47 (and a petition thereunder) is only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. Where, as here, all the named inventors have executed the original oath or declaration under 37 CFR 1.63, 37 CFR 1.47 has no relevance to the application. See MPEP 201.03(b); 409.03.

Rather, MPEP 715.04 applies to the situation in hand and notes in pertinent part that (1) an affidavit or declaration filed under 37 CFR 1.131 may be signed by less than all the named inventors when the signing inventors are in fact the inventors of the subject matter of the of the claim(s) under rejection, or (2) if it is shown that a joint inventor of the claimed invention refuses to sign, the signature(s) of the remaining inventor(s) is sufficient, provided that the declaration under 37 CFR 1.131 shows completion of the invention by all the joint inventors of the claimed subject matter, or (3) the assignee of the entire interest may make the declaration under 37 CFR 1.131.

Accordingly, the file is being returned to Technology Center AU 2145 for treatment of the showing under 37 CFR 1.47(a) as part of a showing under the practice of MPEP 715.04, for acceptance of the declaration under 37 CFR 1.131, signed by less than all the named inventors.

As the petition under 37 CFR 1.47(a) is dismissed as moot, pursuant to petitioners' request, the $200.00 petition fee will be credited to deposit account no. 50-0605.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3230.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

COPY MAILED

DEC 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Drennan Selgas et al	:	
Application No. 10/417,862	:	DECISION ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. MMAIL 1532007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 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 23, 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 November 25, 2006 (November 23, 2006, the due date, was a Federal holiday).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of August 23, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

This application is being referred to Technology Center AU 2145 for appropriate action in the normal course of business on the reply received June 25, 2007.

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

Thomas Drennan Selgas c/o CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

In re Application of: Thomas SELGAS, et al.
Application No. 10/417,862
Filed: Sept 20, 2007
Atty. Docket No MMAIL 1532007
Title: GETTING ADDRESS FROM A SECOND ENTITY

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

This is a decision on the petition filed Feb 26, 2010 to the Office of General Counsel of the U.S. Patent and Trademark Office, hereby treated under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and request the Examiner to advance prosecution of the instant application without further undue delays.

The petition is **DISMISSED as MOOT**

MPEP § 1201 states, in part:

> ...the differences of opinion concern the **denial of patent claims because of prior art** or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).
>
> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

37 CFR 41.31 (a) states: .

> Every applicant, any of whose **claims has been twice rejected, may appeal from the decision of the examiner to the Board** by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under § 1.134 of this title for reply35 U.S.C. 134 Appeal to the Board of Patent Appeals and Interferences.

A review of the record indicates that a Request for Continued Examination (RCE) on Nov, 13, 2009 followed by a Non-Final office action mailed on Feb 03, 2010. On Feb 25, 2010, applicant

filed the instant petition along with an amendment/response to the Office action of Feb 03, 2010. The petition discusses disagreements on the manner in which the pending claims are rejected over the U.S. Patent no 5,828,837 to Eikeland. Following the petition, there were a series of interviews and communications between the applicant and the examiner Thus, it is apparent that such a disagreement regarding claim interpretation and rejection is **appealable, not a petitionable matter**. As indicated by the file history following the petition, there were a series of interviews and communications between the applicant and examiner attempt to advance prosecution of the application.

In light of the subsequence interviews, the petition is **DISMISSED as MOOT.** The petitioner is reminded of the option of appealing the rejections pursuant 37 CFR 41.43.

The application will be forwarded to the examiner for consideration of the amendment filed Feb 26, 2010.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 242-4147.

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-06

Paper No. 6

A. BURGESS LOWE
101 EAST MAPLE STREET
NORTH CANTON OH 44720

COPY MAILED
SEP 05 2006
OFFICE OF PETITIONS

In re Application of	:	
Allgeier et al.	:	
Application No. 10/417,866	:	DECISION ON PETITION
Filed: 17 April, 2003	:	
Atty Docket No. 2649	:	

This is a decision on the petition filed on 3 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 28 August, 2003, for failure to timely reply to the Notice to File Corrected Application

---

[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)).

Papers, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 August, 2004.

Petitioners have supplied the abstract required by the Notice mailed on 27 June, 2003.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[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.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Mark L. Weber
First National Tower, Fourth Floor
Akron OH 44308

---

[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).

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
10/417,881	04/16/2003	2685	1144	UTL 00249	15	30	4

CONFIRMATION NO. 8031

CORRECTED FILING RECEIPT

OC000000013167483

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

Date Mailed: 07/07/2004

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)

Tim Forrester, San Diego, CA;
Allen Tran, San Diego, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/09/2003

Projected Publication Date: 10/21/2004

Non-Publication Request: No

Early Publication Request: No

Title

N-plexer systems and methods for use in a wireless communications device

Preliminary Class

455

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SWANSON & BRATSCHUN, L.L.C.
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

COPY MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Rea et al.	:	
Application No. 10/417,883	:	ON APPLICATION FOR
Filed: April 16, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0225.4001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 CFR § 1.705(b) filed February 17, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred ninety (490) days to one thousand one hundred twenty-five (1125) days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the

request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

It is acknowledged that 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 January 4, 2008.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On November 14, 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 (PTA) to date is 490 days. On February 17, 2009, applicant timely submitted the instant application for patent term adjustment[1]. Applicant maintains that the period associated with the mailing of the Restriction Requirement on April 5, 2006 is six hundred sixty-five (665) days, not six hundred fifty-eight (658) days as indicated in the PAIR calculation.

Applicant states that this patent is not subject to a terminal disclaimer.

Applicant is incorrect. It is undisputed that this application was filed on April 16, 2003 and a first Office action was mailed on April 5, 2006. Accordingly, the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 is 658 days. This period is counted beginning on the day after the date that is fourteen months after the actual filing date of this application, June 17, 2004, and ending on the date of the mailing of the restriction requirement, April 5, 2006. Applicant erred in calculating this period as 665 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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 will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] PALM records indicate that the issue fee was also paid on February 17, 2009.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dechert, LLP
1117 California Avenue
Palo Alto, CA 94304-1106

COPY MAILED

JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Jean-Louis Ruelle	:	
Application No. 10/417,885	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. BM45331-D1	:	

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

The application became abandoned for failure to timely submit the issue fee and publication fee.

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

The communication styled "Combined Revocation and Power of Attorney and Statement under 37 CFR § 3.73(b)", filed November 7, 2005, has been accepted and made of record.

The application file is being referred to the Publishing Division to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 19 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

HAHN LOESER & PARKS, LLP
Twin Oaks Estate
1225 W. Market Street
Akron, OH 44313

MAILED

AUG 19 2004

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Steven E. Hamilton :
Application No. 10/417,892 :
Filed: April 17, 2003 :
For: MANUALLY OPERATED SNOW REMOVAL APPARATUS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 01, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the original Declaration and Power of Attorney did not list a customer number; therefore, power was never given to the attorneys of customer number 21324. The attorney Robert J. Clark signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

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

SNM/pav: 8/17/04

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 27 2004

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

Hahn, Loeser & Parks, LLP
Twin Oaks Estate
1225 W. Market Street
Akron, OH 44313

MAILED
AUG 27 2004
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Steven E. Hamilton
Application No. 10/417,892
Filed: April 17, 2003
For: MANUALLY OPERATED SNOW REMOVAL APPARATUS

SUPPLEMENTAL DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a supplemental decision on the request filed on July 1, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The original decision dated August 19, 2004 indicated withdrawal of the attorneys of record would not be approved, due to the request to withdraw being made by Customer Number without the original power of attorney in the original declaration being given by Customer Number. A review of the original declaration reveals that power was actually given by Customer Number, although in a very unobvious manner. This Supplemental decision is taken in view of the above review of information and thus the request for withdrawal of Attorney filed July 1, 2004 is hereby **APPROVED**.

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

SM/SM; 8/27/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WATTS, HOFFMANN, FISHER & HEINKE CO., L.P.A.
STE. 1750
1100 SUPERIOR AVE.
CLEVELAND, OH 44114

COPY MAILED

NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Wadkins	:	
Application No. 10/417,898	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 15-433C1	:	

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.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 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, the $475 extension of time submitted with the petition on September 20, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 23-0630 as authorized.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 37 CFR 1.137(b) has been made of record and small entity status has been accorded.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3753 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO CA 94304-1018

COPY MAILED

JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Kohji Miyake et al	:	
Application No. 10/417,986	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. 275412001500	:	

This is a decision on the petition, filed July 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 19, 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 2627 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/418,019	04/17/2003	Raymond C. Sturm	5581

CONFIRMATION NO.
1193

Charlotte C. Wilson
Legal Department, M-495
PO Box 1926
Spartanburg SC 29304

Date Mailed: July 22, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on March 1, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ■ The Application was published on June 3, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040106342A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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.
10/418,022	04/17/2003	Christopher Murray	0275S-000596	8570

27572 7590 03/17/2008
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
PHAM, THOMAS K

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080213

DATE : October 31, 2007

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction on Patent No.: 7,082,339

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

SPE: /David Vincent/ Art Unit 2129

UNITED STATES 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

ORRICK, HERRINGTON & SUTCLIFFE LLP
Suite 1600
Four Park Plaza
Irvine CA 92614-2558

COPY MAILED

JAN 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Hitoshi Sazuki et al. :
Application No. 10/418,023 : DECISION ON PETITION
Filed: April 17, 2003 : UNDER 37 C.F.R. §1.53(e)
Attorney Docket No. 701158-4003 :
Title: Power Tools :

This is a decision on the "petition under 37 C.F.R. §1.17(H) to accord this application a filing date of April 17, 2003," filed September 15, 2003, which is properly treated as a petition under 37 C.F.R. §1.53(e), requesting the application, including Figure three (3) be accorded a filing date of April 17, 2003 as part of the original disclosure.

The application was deposited on April 17, 2003. However, on July 11, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers - Filing Date Granted" (Notice), stating that the application had been accorded a filing date of April 17, 2003, that a substitute specification would be required, and that the application appeared to have been deposited without Figure three (3).

In response, on September 15, 2003, applicants filed the present petition. The petition is further accompanied by the petition fee, a substitute specification, and a copy of Figure three (3). On November 10, 2003, petitioner submitted via facsimile transmittal a copy of applicants' postcard receipt acknowledging receipt of "drawings (28 pgs)" in the United States Patent and Trademark Office (Office) on April 17, 2003. Applicants request that the application, including Figure three (3), be accorded a filing date April 17, 2003.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 17, 2003 included Figure three (3), and the drawing sheet containing this Figure was subsequently misplaced in the Office.

Therefore, the application, including Figure three (3), was complete on filing and entitled to a filing date of April 17, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the notice mailed July 11, 2003 was sent in error. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 17, 2003, using the original application papers filed on that date, and the substitute specification and Figure three (3) both submitted concurrently on September 15, 2003 with the instant petition.

Any inquiries related to this decision should be directed to Attorney Paul Shanoski at (703) 305-0011.

C. T. Donnell for

Jay Lucas
Interim Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

CALFEE, HALTER & GRISWOLD, LLP
1110 FIFTH THIRD CENTER
21 EAST STATE STREET
COLUMBUS, OH 43215-4243

COPY MAILED

OCT 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Kieliszewski, Marcia J.	:	
Application No. 10/418,032	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. 27211/04099	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed December 15, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 16, 2004. A Notice of Abandonment was mailed on August 31, 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Marcia J. Kieliszewski :
Application No. 10/418,032 : ON PETITION
Filed: April 16, 2003 :
Attorney Docket No. 27211/04099 :

This is a decision on the petition, filed August 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 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) 272-3208.

The examiner of Technology Center AU 1656 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMAN WASSON & GITLER, P.C
CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202-3843

COPY MAILED
MAR 01 2007
OFFICE OF PETITIONS

In re Application of

Yasemin Boyum

Application No. 10/418,070

Filed: April 18, 2003

Attorney Docket No. A-7866

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed August 15, 2006, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed January 26, 2006. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on April 27, 2006. A Notice of Abandonment was mailed on June 14, 2006.

Form PTOL-85B and the issue fee payment were received on May 12, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Craig C. Hansen et al :
Application No. 10/418,113 :
Filed: April 18, 2003 :
Attorney Docket No. 43876-142

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 2100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

Inventor: Craig C. Hansen
Application No. 10/418,113
Filed: April 18, 2003
For: MULTIPLIER ARRAY PROCESSING SYSTEM WITH ENHANCED UTILIZATION AT LOWER PRECISION

: **DECISION ON**
: **§ 1.183 PETITION**
:

The instant application has been forwarded to the Office of Patent Legal Administration for a decision on a June 10, 2005 petition under § 1.183 supplemented on June 27, 2005. The petition requests waiver of the requirement for submission of copies of documents cited in an Information Disclosure Statement.

The § 1.183 petition is dismissed.

Background

An Information Disclosure Statement (IDS) filed on June 10, 2005 was accompanied by a petition under § 1.183 seeking waiver of the requirements under §§ 1.4 and 1.98 for copies of documents cited in the IDS.

The June 10, 2005 § 1.183 petition identified 16 applications. The June 27, 2005 supplementary petition identified 15,000 pages that were to be submitted in each of the identified applications referenced in the June 10, 2005 petition.[1]

Subsequent IDSs were submitted on February 2, 2006,[2] March 14, 2008, March 18, 2008, and June 27, 2008 without copies of the cited documents. There are also four February 2, 2006 entries for Instruction for Evidence Copy Box Identification of Duplicate Documents, related to the making of copies of records from another file.

On August 8, 2008 another IDS was submitted directed towards particular Office actions that were part of various patent files. Copies of Office actions and one specification were also submitted.

[1] IDSs were also previously submitted on April 18, 2003 and November 23, 2004, which submissions do not appear to be part of the petition.
[2] The February 2, 2006 paper in the Office data base also contains a Notice of Concurrent Proceedings paper identifying concurrent reexamination proceedings, which involve related patents to the instant application.

Decision

The petition requests that the submission of copies of the documents being cited be waived in view of the number of applications involved (16) and the number of pages (15,000) that would be required to be submitted. Waiver is argued as appropriate in view of:

- the submission of a single copy paper set of documents,
- the Office's practice of scanning documents into the Image File Wrapper,
- the difficulty in obtaining additional copies of some of the materials (in book form), and
- the creation of a scanned image from the single set that will permit the Office to process the papers efficiently, and expedite the Examiner's consideration of the IDS in all the applications without need of multiple paper copies.

It is initially noted that the IDS concomitantly filed with the petition is not explicitly mentioned in the June 10, 2005 petition or identified in the June 27, 2005 supplemental petition, nor are any of the IDSs filed prior to the petition mentioned in the petition. It is presumed for the purpose of this Decision, that the petition is intended to at least cover the concomitantly submitted IDS. However, it is not clear to what extent, if any, petitioner seeks waiver for the cited documents in the subsequently filed IDSs of February 2, 2006, March 14, 2008, June 27, 2008 (particularly in view of the February 2, 2006 Evidence copies being made), and August 8, 2008 (notwithstanding at least some copies being supplied).

The mere existence of a large number of pages of documents desired to be submitted in a number of applications is insufficient to justify waiver of the copy requirement of 37 CFR 1.98. Petitioner can utilize the Office's electronic submission system, EFS-Web, to electronically submit the documents in all of the identified applications thereby eliminating the need for the Office to process a paper copy for each application. On balance, it is preferable for applicant to perform the electronic conversion rather than the Office as applicant is in a better position to identify and resolve any errors that might be introduced during a scanning process.

Accordingly, the petition under § 1.183 as supplemented is dismissed.

Petitioner is reminded of the requirement of § 11.18(b)(2)[3] that each cited document (that comprise the 15,000 pages) must be reviewed before being submitted to the Office in each application. Petitioner is also reminded that based on this review of the documents to be cited in each individual application, the party submitting the IDS must determine that no document is being cited for any improper purpose.

Any renewed petition must affirmatively:

(1) identify each of the documents for which copy waiver is sought, and
(2) acknowledge for each identified document that the document has been reviewed within the meaning of §11.18(b)(2) for each application in which it is being cited.

[3] Formerly 37 CFR 10.18(b)(2). See 73 Fed. Reg. 47650 (August 14, 2008).

Status of Application

A request for continued examination (RCE) has been filed on June 10, 2005, subsequent to a March 16, 2005 Notice of Allowance, in order to allow the Examiner to consider a concomitantly submitted IDS. A June 8, 2007 Status Inquiry was filed as to when action on the RCE would be forthcoming, which action will occur in due course upon receipt by the Technology Center of the application for examination.

Processing

The instant Decision (after mailing in paper form) will be forwarded to the examiner for: (1) entry of the mailed Decision into the file record, and (2) an action on the RCE filing.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
(571) 272- 7707

UNITED STATES 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 N. BLACKMON
MEREK, BLACKMON & VOORHEES
673 S. WASHINGTON STREET
ALEXANDRIA, VA 22314

COPY MAILED

DEC 0 7 2005

OFFICE OF PETITIONS

In re Application of
SOMMERS et al.
Application No. 10/418,120
Filed: April 18, 2003
Attorney Docket No. B5TEA005.14

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 February 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of February 16, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3672.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS DICKEY PIERCE P.L.C.
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

MAR 17 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Peter Tiemann :
Application No. 10/418,158 :
Filed: April 18, 2003 :
Attorney Docket No. 32860-000539/US

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

The petition is **GRANTED**.

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

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

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

This matter will be forwarded to Technology Center AU 3748 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 09 2008

OFFICE OF PETITIONS

BRAKE HUGHES BELLERMANN LLP
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Craig et al.	:	DECISION ON PETITION
Application Number: 10/418178	:	TO WITHDRAW HOLDING OF
Filing Date: 04/17/2003	:	ABANDONMENT
Attorney Docket Number: P-US-	:	
JK-01475/jfk/IND-EQU	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)," filed on November 13, 2007, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed on March 22, 2007. An amendment after final rejection was filed on May 29, 2007, but on June 7, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on May 29, 2007, fails to place this application in condition for allowance. Notice of Abandonment was mailed on October 26, 2007.

Petitioners assert that a proper response was in fact timely filed in the form of a Request for Continued Examination (RCE) and a one (1) month extension of time. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of the RCE, one (1) month extension of time, and the fee transmittal in the United States Patent and Trademark Office (Office) on July 2, 2007. Additionally, petitioners have submitted a copy of the RCE Transmittal, petition for extension of time, and the transmittal letter with the present petition.

The original fee payment for an RCE and a one (1) month extension of time filed on July 2, 2007, has been located in the Office.

Petitioners' response to the final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 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 PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is

concluded that the reply to the RCE and one (1) month extension of time were received in the Office but were not matched with the application file.

Additionally, the transmittal letter accompanying the RCE and the one (1) month extension of time filed with the present petition bears a proper certificate of mailing, dated June 28, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

Consequently, there is no abandonment in fact.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Harold C. Moore
Maginot, Moore & Bowman
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115

COPY MAILED

FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Guy Caliendo, et. al.	:	
Application No. 10/418,186	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 2003P05753US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 26, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed March 4, 2005. A Notice of Abandonment was mailed on August 30, 2005.

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 for processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John H. Sherman
Intermec Technologies Corporation
c/o Legal Department
550 Second Street S.E.
Cedar Rapids, IA 52401

COPY MAILED

AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Grabon, et. al.	:	
Application No. 10/418,190	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 38250RA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on May 14, 2007, to revive the above-identified application.

The application became abandoned for failure to reply to the final Office action mailed August 11, 2006.

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

This application file is being referred to Technology Center Art Unit 2617, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 22 2008
OFFICE OF PETITIONS

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Patent No. 7,148,343 :
Issue Date: December 12, 2006 :
Application No. 10/418,194 :
Filed: April 16, 2003 :
Attorney Docket No. 17094.005US1 :

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**.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,672,852	2004-01-06	10/418,200	2003-04-18	7004.153

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	/Demian K. Jackson/	Date (YYYY-MM-DD)	2010-01-05
Name	Demian K. Jackson	Registration Number	57551

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. 6672852
Issue Date: January 6,2004
Application No. 10418200
Filed: April 18,2003
Attorney Docket No. BHT-3223-20

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

This is a decision on the electronic petition, filed January 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 5,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20037-3213

COPY MAILED

OCT 31 2003

OFFICE OF PETITIONS

In re Application of
Miwa, et al.
Application No. 10/418,217
Filed: April 18, 2003
Attorney Docket No. Q75166

DECISION GRANTING PETITION

This is a decision on the "Petition and Response to Notice of Incomplete Application", filed July 30, 2003, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of April 18, 2003.

The application was deposited on April 18, 2003. However, on July 21, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims, namely claims 3-8.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the petition is **GRANTED**.

The "Notice of Incomplete Nonprovisional Application", mailed July 21, 2003, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of April 18, 2003, as requested in the petition.

Furthermore, 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.

Petitioner has submitted a postcard receipt identifying this application, itemizing "# Dwg. Sheets: 3" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 18, 2003, and lacking any notation of non receipt of any item listed.

Given the basis for granting this petition, the petition fee has been refunded to Deposit Account No. 19-4880.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 18, 2003, using the application papers received in the Office on that date and 3 (three) sheets of drawings as resupplied on petition filed July 30, 2003.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

John Gillon
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

JAN 2 5 2005

In re Application of BRUMBELOW et al. Serial Number: 10/418,227 Filed: April 14, 2003 For: CARPET, CARPET BACKINGS AND METHODS	: : : : :	PETITION UNDER M.P.E.P.708.02

This is in response to the petition filed July 14, 2004, requesting that the above-identified application be granted Special Status under Sections 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 the criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

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

Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MESMER & DELEAULT, PLLC
41 BROOK STREET
MANCHESTER, NH 03104

COPY MAILED

DEC 2 7 2007

OFFICE OF PETITIONS

In re Application of
Robert E. Weinstein
Application No. 10/418,229
Filed: June 8, 2004
Attorney Docket No. WEIN0403RX0TC2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 31, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before August 6, 2007. A Notice of Abandonment was mailed on August 28, 2007. In response, on August 31, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:
Toshitsune Iijima et al	:
Application No. 10/418,274	: DECISION GRANTING PETITION
Filed: April 18, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.3038	:

This is a decision on the petition, filed December 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2823 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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Jose Lopez-Ribot	: DECISION ON REQUEST FOR
Patent Number	: 7632502	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/418,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **921** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 05/18/2010

Applicant : Jose Lopez-Ribot
Patent Number : 7632502
Issue Date : 12/15/2009
Application No : 10/418,303
Filed : 04/18/2003

: 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 **1009** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IP STRATEGIES
12 1/2 WALL STREET
SUITE E
ASHEVILLE NC 28801

COPY MAILED

FEB 23 2009

OFFICE OF PETITIONS

In re Application of
Scheidt, et al.
Application No. 10/418,312
Filed: 17 April, 2003
Attorney Docket No. STSPT48

DECISION

This is a decision on the petition filed on 11 August, 2008, which is being treated as a petition under 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to 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 C.F.R. §1.137(f).)

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

As to Allegations of
Failure to Notice

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(f) are the petition and fee therefor, a reply in the form of the Notice of subsequent foreign/international filing (in an eighteen-month publication country) and the date thereof, and a proper statement of unintentional delay under the regulation.

BACKGROUND

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on 16 April, 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. Therefore, pursuant to the provisions of 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 C.F.R. §1.17(m); and
> (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) 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 cannot be generated at this writing.

As to Allegations of
Failure to Notice

It appears that the requirements under 37 C.F.R. §1.137(f) have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(f) and considered under 37 C.F.R. §1.137(b) is **granted**.

This application is being released to Technology Center/AU 2435 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 decision has been acknowledged by the Technology Center/AU. It is noted that all inquiries with regard to substantive examination need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request—Could not be generated at this writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP STRATEGIES
12 1/2 WALL STREET
SUITE E
ASHEVILLE NC 28801

COPY MAILED

FEB 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Scheidt, et al.	:	
Application No. 10/418,312	:	DECISION
Filed: 17 April, 2003	:	
Attorney Docket No. STSPT48	:	

This is a decision on the petition filed on 11 August, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 January, 2008, with reply due absent extension of time on or before 8 April, 2008;
- the application went abandoned by operation of law after midnight 8 April, 2008;
- it does not appear that the Office mailed a Notice of Abandonment before the petition was filed;

- on 5 August, 2008, Petitioner submitted a petition with fee, the reply in the form of an amendment, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

It appears that 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**.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

The instant application is released to Technology Center/AU 2435 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.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

COPY MAILED

DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Bobroff et al.	:	
Application No. 10/418,334	:	DECISION ON PETITION
Filed: April 18, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PF00416 DIV 2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed Nonprovisional Application No. 08/795,968, filed February 5, 1997, set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the

> same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1370.00 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 50-0621.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

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

Liana Chase
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES 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 MINIMED INC.
18000 DEVONSHIRE STREET
NORTHRIDGE CA 91325-1219

COPY MAILED

DEC 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Bobroff et al.	:	
Application No. 10/418,334	:	DECISION GRANTING PETITION
Filed: April 18, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PF00416 DIV 2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 13, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/795,968, filed February 5, 1997, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant 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 by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, 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 previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3763 for appropriate action on the amendment filed December 13, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#14

MATTINGLY,STANGER, MALUR &
BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED

MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Nakayama et al	:	
Application No. 10/418,360	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 520.38682CX1	:	

This is a decision on the petition, filed March 15, 2005, under 37 CFR 1.313©)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the application file will be forwarded to Technology Center AU 2116 to consider the request for continued examination under 37 CFR 1.114 submitted March 15, 2005.

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

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

COPY MAILED

DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Shinichi Nakayama, et al. :
Application No. 10/418,360 :
Filed: April 18, 2003 :
Attorney Docket No.: 520.38682CX1 :
:

ON PETITION

This is a decision on the petition, filed November 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 November 8, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2116 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

COPY MAILED

MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph L. Brigham, Jr. et al.	:	
Application No. 10/418,363	:	DECISION ON PETITION
Filed: May 4, 2006	:	TO WITHDRAW
Attorney Docket No. DROPP001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 23, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to Kevin Zilka and all attorneys/agents of record has been revoked by the assignee of the patent application on October 1, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Squire, Sanders & Dempsey, LLP
Patent Department
One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SQUIRE, SANDERS & DEMPSEY L.L.P
PATENT DEPARTMENT
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111-3492

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of

Lynch, et al.

Application No. 10/418,363

Filed: April 17, 2003

Attorney Docket No. 102014.84

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 23, 2008.

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

This application was held abandoned on May 24, 2008, after it was believed that a timely appeal brief was not filed after the mailing of the Notice of Panel Decision from Pre-Appeal Brief Review was mailed April 23, 2008, which set an extendable period of one month in which to file an appeal brief. A Notice of Abandonment was mailed June 30, 2008.

A review of the application file history reveals that an Appeal Brief was filed on October 23, 2008, with a request for an extension of time within the fifth month. Pursuant to 37 CFR 1.136(a)(1), the time period for filing an Appeal Brief after the i mailing of the Notice of Panel Decision from Pre-Appeal Brief Review s extendable five additional months as the time period for filing an Appeal Brief is not set by statute and does not fall under of the exceptions provided in 37 CFR 1.136(a)(1). Based on the aforementioned, it appears that the application was improperly held abandoned as the Appeal Brief was received prior to expiration of the maximum period for reply. The holding of abandonment is withdrawn, accordingly.

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

The application file is being forwarded Technology Center 2600, GAU 2624 for further processing.

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
DIW May-06

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Scanlon et al.	:	
Application No. 10/418,399	:	DECISION ON PETITION
Filed: 18 April, 2003	:	
Atty Docket No. TRUC-0012/2003-214-1	:	

This is a decision on the petition, filed on 19 December, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioners states that the present nonprovisional application is the subject of a foreign or international application both filed on 19 April, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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.

The application matured into Patent No. 6,979,750 on 27 December, 2005. Therefore, no further action being required.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD LLP
THE BOWEN BUILDING
ATTN: THE PATENT GROUP
875 15TH STREET, N.W., SUITE 800
WASHINGTON DC 20005-2221

COPY MAILED
FEB 17 2006
OFFICE OF PETITIONS

In re Application of McGall, et al. Application No. 10/418,414 Filed: August 22, 2003 Attorney Docket No. 1072.1B For: MODIFIED NUCLEIC ACID PROBES	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182/1.183, filed December 20, 2005, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed June 25, 2003 and accordation of an April 18, 2003 filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on April 18, 2003. On June 25, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on April 18, 2003 because no drawing was present, as is required by 35 U.S.C. 113. In response to the Notice, petitioners filed

It is noted that the above-identified application contains composition and method claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence.)

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing

> drawing figures in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains composition and method claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed June 25, 2003 was mailed in error and is hereby withdrawn. The petition is **granted**. As the application was entitled to a filing date without drawings on April 18, 2003, the $400.00 petition fee will be credited to deposit account no. 50-1283.

It is noted that the instant application is a continuation application of application no. 09/608,691 and the entire contents of the prior application was incorporated by reference in the instant application upon initial filing.

Regarding addition of the drawing figures:

If a continuation of divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicants will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s)...may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). ...Applicants should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application.

Applicants should submit a **formal** amendment adding the drawing figures to application no. 10/418,414. The examiner will determine new matter issues.

The revocation and power of attorney filed on December 20, 2005 has been entered and made of record. Please find enclosed notices regarding the change in power of attorney.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **April 18, 2003** without the drawing figures.

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

E. Shirene Willis

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

enclosures: Notices regarding power of attorney change

UNITED STATES 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 01-05

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

COPY MAILED

JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Cannon et al.	:	DECISION ON PETITION
Application No. 10/418,420	:	
Filed: 18 April, 2003	:	
Atty Docket: 6912.US.02	:	

This is a decision on the petition filed on 22 November, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on 23 November, 2003, for failure to timely response to the non-final Office action mailed on 22 August, 2003, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 13 April, 2004.

The present petition is accompanied by an amendment.

A statement that reads or literally means the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional is required by 37 CFR 1.137(b)(3). The instant petition does not contain such a statement, but is being so construed. Petitioners **must** notify this office if this is not a correct interpretation.

The application is being referred to Technology Center Art Unit 1624 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

COPY MAILED
SEP 28 2006
OFFICE OF PETITIONS

In re Application of :
Yong-IL Kim :
Application No. 10/418,425 : ON PETITION
Filed: April 17, 2003 :
Attorney Docket No. **1190860-991120** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 16, 2005, for failure to timely file a reply to the final Office action mailed April 18, 2005, which set a three (3) month shortened statutory period for reply. A response was filed September 19, 2005 with a certificate of mail date of September 15, 2005. However, by Advisory Action mailed October 5, 2005, petitioner was advised that the amendment did not place the application in condition for allowance. No additional responses nor any requests for extensions of time under 37 CFR 1.136(a) were filed. The instant petition and this decision precede the mailing of the Notice of Abandonment.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The 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 $ 1500.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is acceptable.

Additionally, the petition to revive and amendment after final was filed with a three month extension of time request, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on April 3, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to the deposit account provided by the attorney's of record at the time the petition was filed.

The matter therefore is being referred to Technology Center 2875.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 20 2009

OFFICE OF PETITIONS

PATENT LAW OFFICES OF DAVID MILLERS
1221 SUN RIDGE ROAD
PLACERVILLE CA 95667

In re Patent No. 6,924,654
Application No. 10/418,441
Filed: April 16, 2003
Attorney Docket No. **MTB011US4P**

NOTICE UNDER 37 CFR. 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 1998, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Kenneth S. Wheelock
General Electric Company
One Plastics Avenue
Pittsfield MA 01201

COPY MAILED

JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Xiaoqian Liu et al.
Application No. 10/418,465
Filed: April 18, 2003
Attorney Docket No.: US 120564-1
Title: CURABLE COATINGS HAVING LOW PERMEABLE TO SULFUR-BEARING GASES

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed March 30, 2005, to revive the above-identified application. The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on March 22, 2005.

With the petition, Petitioner has submitted the proper statement of unintentional delay, along with the petition, issue, and publication fees.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

2 See MPEP §710.02(e).

All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/18/08

Patent No. : 6857696
Inventor(s) : Usagani
Issued : 2/22/05
Title : MULTI-FUNCTIONAL FURNITURE
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 8, line 16, is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Sheridan Ross P.C.
1560 Broadway
Suite 1200
Denver, Colorado 80202-5141

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

King & Spalding LLP
191 Peachtree Street, N.E.
Atlanta, GA 30303-1763

In re application of
Frank S. Maggio
Application No. 10/418,491
Filed: April 18, 2003
For: METHOD AND SYSTEM FOR VERIFYING EXPOSURE TO MESSAGE CONTENT

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on July 20, 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**.

In satisfaction of item (B) above, petitioner states that, "Applicant will elect a single invention without traverse if the Patent Office determines that all the claims are not directed to a single invention."

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/rwg: 11/06/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

JUL 22 2009

OFFICE OF PETITIONS

In re Application of :
John Anthony Taylor :
Application No. 10/418,493 :
Filed: April 18, 2003 :
Atty Docket No. 418268879US :

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 January 20, 2009. Applicant requests that the determination of patent term adjustment be increased from six hundred eighty-three (683) days to one thousand two hundred seven (1207) days. Applicant requests this correction in part 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)[1].

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

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

[1] It is noted that a request for continued examination (RCE) was first filed in this application on February 8, 2008. An RCE cuts-off their ability to accumulate any additional patent term for over three year pendency. The 1.702(b) period excludes any period consumed by continued examination requested by applicant under 35 U.S.C. 132(b).

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

To the extent that this application for patent term adjustment otherwise requests reconsideration of the initial determination of patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is <u>dismissed</u>.

---

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

On December 19, 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 683 days. The instant application for patent term adjustment was timely filed[3] on or before payment of the issue fee. Applicant disputes the period of reduction of 104 days pursuant to 37 CFR 1.704(c)(7) entered for applicant delay in filing the response after non-final Office action filed August 27, 2007. Applicant maintains that by the response filed August 27, 2007 they demonstrated (and the examiner agreed) that their response filed May 15, 2007 was fully compliant. Accordingly, applicant argues that entry of the period of reduction of 104 days is not warranted.

Applicant's argument has been considered, but not found persuasive. The record does not show that the May 15, 2007 response standing alone was fully responsive. The November 16, 2007 Office action was issued in reply to both the response filed May 15, 2007 and the response filed August 27, 2007. The reduction of 104 days will not be removed.

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[3] PALM records indicate that the issue fee was paid on January 20, 2009.

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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: John Anthony Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7580976	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/418,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1199** 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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Isard, Heirich, and Shand
Application No.: 10/418,502
Filed: April 18, 2003
Attorney Docket No: 200302601-1
For: DISTRIBUTED RENDERING OF INTERACTIVE SOFT SHADOWS

: DECISION REFUSING
: RULE 47(a) STATUS

This is a decision on the petition under 37 CFR 1.47(a) filed August 25, 2003.

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

Any request for reconsideration under 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. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-cited application was filed on April 18, 2003, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 26, 2003, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed on August 25, 2003.

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

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (2) as set forth above.

As to item (2), Section 409.03 of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602 § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning inventor as required by 37 CFR 1.64. An oath or declaration signed by all of the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

The declaration filed on August 25, 2003, that is executed by inventor Isard is defective because it does not contain signature blocks for the other inventors. Without this signature block, the available joint inventors cannot be said to have executed the declaration on their own behalf and on behalf of inventor Heirich. It is noted that the declaration indicates that there are two pages, but there is only page of the declaration found in the Image File Wrapper for the application. A proper declaration, preferably one that is formatted according to MPEP § 409.03 cited above, must accompany any renewed petition filed.

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

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

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

Telephone inquiries concerning 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

MAILED

MAR 30 2010

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of
Isard, Heirich, and Shand
Application No.: 10/418,502
Filed: April 18, 2003
Attorney Docket No: 200302601-1
For: DISTRIBUTED RENDERING OF INTERACTIVE SOFT SHADOWS

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 23, 2010.

The renewed 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 April 18, 2003, and was not accompanied by a proper declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on June 26, 2003, requiring a properly executed declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on August 25, 2003, and dismissed by a decision mailed December 23, 2009.

Petitioner has shown that inventor Heirich is refusing to join the prosecution 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 Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 30 2010

OFFICE OF PETITIONS

Alan Heirich
2024 Touraine Lane
Half Moon Bay, CA 94019

In re Application of :
Isard, Heirich, and Shand :
Application No.: 10/418,502 : LETTER
Filed: April 18, 2003 :
Attorney Docket No: 200302601-1 :
For: DISTRIBUTED RENDERING OF INTERACTIVE SOFT SHADOWS

Dear Mr. Heirich:

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 (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

UNITED STATES 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 4

COPY MAILED

NOV 05 2003

OFFICE OF PETITIONS

WHYTE HIRSCHBOECK DUDEK S C
111 EAST WISCONSIN AVENUE
SUITE 2100
MILWAUKEE WI 53202

In re Application of
Charles R. Brown et al.
Application No. 10/418,507
Filed: April 17, 2003
Attorney Docket No ION-31738

DECISION GRANTING PETITION

This is a decision on the petition filed August 8, 2003 under 37 CFR 1.53, in response to the "Notice to File Corrected Application Papers" mailed June 23, 2003.

The instant application was filed April 17, 2003 and a filing date was accorded. However, according to the "Notice" mailed, the application papers submitted did not include Figure 9.[1]

Petitioner asserts that the paper containing Figure 9 was among the papers filed on April 17, 2003, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 8 and bears a United States Patent and Trademark Office date-stamp of April 17, 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, the petition fee in the amount of $130.00 will be credited back to deposit account no. 23-2053.

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 April 17, 2003 and the one sheet of drawing (sheet 6 of 8) containing Figure 9 submitted on petition August 8, 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

---

[1]The "Notice" mailed June 23, 2003 also indicated that items had been omitted from the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

JAN 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Donald C. Miller :
Application No. 10/418,509 :
Filed: April 16, 2003 :
Attorney Docket No. **LINEARB.7C1C1** :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C 119(e) for the benefit of priority of the prior-filed provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

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

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

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

The instant pending application was filed on April 16, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first page of the specification, 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 applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

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

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant pending application was filed on April 16, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed provisional applications has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(5)(i).

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the 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 applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning 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(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 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 check in the amount of $130.00 was remitted, however; the fee for the instant petition is $1,370.00. The amount of $130.00 will be refunded, accordingly, and deposit account 11-1410 will be charged $1,370.00.

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 3600, Art Unit 3681 for appropriate action on the amendment filed September 2, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§119(e) and 120 to the prior-filed non-provisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: 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

In re Application of	:	
Donald C. Miller	:	
Application No. 10/418,509	:	ON PETITION
Filed: April 16, 2003	:	
Attorney Docket No. **LINEARB.7C1C1**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional application set forth in the amendment filed concurrently with the instant petition. The petition will also be treated a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

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

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

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

The instant pending application was filed on April ~~26~~ 16, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional application~~s~~ has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application~~s~~ is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application~~s~~ 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 benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional application~~s~~ satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

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

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant pending application was filed on April ~~26~~ 16, 2003, and was pending at the time of the filing of the instant petition. ~~References~~ a reference to the prior-filed provisional applications ~~have~~ has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(5)(i).

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 the expiration of the period specified in 37 CFR 1.78(a)(~~7~~5)(ii). Also, the reference to the prior-filed application~~s~~ 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~~ 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the 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 applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning 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 application 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

and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5)

benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A check in the amount of $130.00 was remitted, however; the fee for the instant petition is $1,370.00. The amount of $130.00 will be refunded, accordingly, and deposit account 11-1410 will be charged $1,370.00.

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 3600, Art Unit 3681 for appropriate action on the amendment filed September 2, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§119(e) and 120 to the prior-filed non-provisional and provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Kevin L. Russell
Suite 1600
601 SW Second Ave.
Portland OR 97204-3157

COPY MAILED

JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Reed Gleason et al.
Application No. 10/418,510
Filed: April 16, 2003
Attorney Docket No.: KLR 1016.2014
Title: METHOD FOR CONSTRUCTING A MEMBRANE PROBE USING A DEPRESSION

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed May 11, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed December 17, 2003, which set a shortened statutory period for reply of 3 months. A response was received on July 16, 2004 along with a three-month extension of time, but this response was filed later than 6 months from the mailing date of the non-final Office action. Accordingly, the above-identified application became abandoned on June 18, 2003. A Notice of Abandonment was mailed on April 29, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL LEGAARD
COZEN O'CONNOR
1900 MARKET ST
PHILADELPHIA, PA 19103

COPY MAILED

JUL 05 2006

OFFICE OF PETITIONS

In re Application of	:	
David J. Ecker et al	:	
Application No. 10/418,514	:	DECISION ON PETITION
Filed: April 18, 2003	:	TO WITHDRAW
Attorney Docket No. IBIS0024-100/TIGR0027US	:	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 24, 2005.

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

A review of the file record indicates that the power of attorney to Paul Legaard has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Medlen & Carroll LLP
101 Howard Street
Suite 350
San Francisco, CA 94105

cc: Medlen & Carroll
440 Science Drive
Suite 203
Madison, WI 53711

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : April 28, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Robert L. Schanke et al
Application No. :10/418,525
Filed :April 17, 2003

The above-identified application has been assigned Patent No. 6,889,932 and an issue date of May 10, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 10, 2005:

"All reference to Patent No. 6,889,932 to et al of Wisconsin for UNWIND SPOOL ASSEMBLY appearing in the Official Gazette of May 10, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03, (FAX-273-5468
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038)
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

COPY MAILED

APR 2 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert L. Schanke et al :
Application No. 10/418,525 :
Filed: April 17, 2003 :
Attorney Docket No. 180825.90221 :

This is a decision on the petition, filed April 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 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3654 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

MAIL

Paper No. 5

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

AUG 2 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
James Farmer
Application No. 10/418,531
Filed: April 17, 2003
For: **METHOD AND SYSTEM FOR PROVIDING A RETURN DATA PATH FOR LEGACY TERMINALS BY USING EXISTING ELECTRICAL WAVEGUIDES OF A STRUCTURE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed June 16, 2004 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed September 30, 2003. A Notice of Abandonment was mailed on June 1, 2004.

Petitioner asserts that a proper response was timely filed on February 17, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on February 17, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 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 U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

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

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 14 2007

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

ROBINS & PASTERNAK LLP
1731 Embarcadero Road, Suite 230
Palo Alto CA 94303

In re Application of
Li et al
Serial No. : 10/418,552
Filed : 17 April 2003
Attorney Dkt No. : 8325-0029 (S29-US1)

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 7 August 2006, to request reconsideration of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on 17 April 2003 under 35 USC 111(a) with 30 claims. A requirement for restriction was mailed on 27 January 2006, requiring the restriction of the 30 claims to one of four inventions under 35 U.S.C. 121 as follows:

Group I, Claims 1-9, 16 and 19-20 drawn to an engineered zinc finger protein, plant cell and transgenic plant, classified in class 530, subclass 350;

Group II, Claims 10-15, 17-18, 20 and 29-30, drawn to a nucleic acid molecule, expression vector, plant cell, transgenic plant and seed, classified in class 536, subclass 23.1;

Group III. Claims 21-22, drawn to a method of modulating expression of GMT in a plant cell by using protein, classified in class 435, subclass 420 and

Group IV, Claims 23-28 drawn to a method of modulating expression of GMT in a plant cell by contacting the cell with a polynucleotide encoding a zinc finger protein, classified in class 435, subclass 468.

Applicants responded to the above restriction requirement on 15 February 2006 by electing Group II with traverse.

The traversal of the restriction was found non-persuasive in a first Office action on the merits mailed on 4 May 2006. The restriction requirement made FINAL. Claims 10-15, 17-18, 20 and 29-30 were rejected under 35 USC 112, first paragraph for lack of adequate written description and enablement. Claims 10-11 were rejected under 35 USC 102(b) as being anticipated by Beerli et al. Claims 10-13 were provisionally rejected under 35 USC 101 as being the same invention as claims 5-8 of copending application 10/650,454.

On 7 August 2006, Applicants responded to the first Office action on the merits and filed this petition.

DISCUSSION

The application, prosecution history and petition have been reviewed and carefully considered.

Following a complete review of the prosecution history in this particular application, given the nature of the invention and the state of the prior art specific for this particular invention, the examiner, upon reconsideration, has agreed to rejoin Group I and II for concurrent examination. For this reason alone, the restriction requirement between Group I and Group II will be withdrawn.

Applicants also traverse the restriction requirement between the products of Group I and II and the methods of Group III and IV. Applicants assert that the Examiner has not identified specific targets for immunoassays for using the proteins of Group I or specific targets for hybridization assays for the polynucleotides of Group II. This argument is not convincing. One could use the protein of Group I to raise antibodies specific for zinc finger proteins or to identify antibodies that bind to zinc finger proteins. One could use the polynucleotides of Group II to identify other zinc finger genes.

Applicants argue that the restriction requirement has not been applied to the claimed subject matter, because Group I requires isolated proteins and Group II requires isolated polynucleotides. Applicants argue that the products, when used in an immunoassay or hybridization assay are no longer "isolated." This argument is not persuasive. The term "isolated" generally means isolated from nature or isolated from the cell. It is understood and expected that products will be combined with other ingredients in kits and solutions for use in assays. Applicants' own method claims refer back to and require the use of the "isolated" products, therefore the restriction between the products and methods, as claimed, is appropriate.

Applicants are reminded that should all claims directed to the products of Group I and II become allowable and should all process claims depend from or require all the limitations of an allowable product claim, the process claims will be considered for rejoinder under MPEP 821.04(b).

DECISION

For these reasons, the Petition under 37 C.F.R. 1.144 to withdraw the previous restriction requirement is **GRANTED-IN-PART** as follows:

The restriction requirement between Group I, protein and Group II, nucleic acid is withdrawn.

The restriction requirement between Group I and II, products, and Group III, method of use is maintained.

The restriction requirement between Group I and II, products, and Group IV, method of use is maintained.

The restriction requirement between Group III and IV is maintained.

Any request for consideration of this petition decision must be filed within TWO (2) MONTHS of the mailing date of this decision.

The application will be forwarded to the examiner for consideration of the response filed 7 August 2006 and preparation of an action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Christopher Low
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Patent No. 6,973,682	:	ON PETITION
Issue Date: December 13, 2005	:	
Application No. 10/418,579	:	
Filed: April 19, 2003	:	
Patentee(s) Eli Zhadanov	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 12, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS, NY 11746

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Eli ZHADANOV	:	DECISION ON PETITION
Application No. 10/418,581	:	TO MAKE SPECIAL UNDER
Filed: April 19, 2003	:	37 CFR 1.102(c)(1)
Attorney Docket No.	:	
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition cannot be granted because the application is not currently in an active status.
The petition cannot be granted because the evidence accompanying the petition is not for an applicant in 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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

ROBERT M. CARWELL
INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPT., INTERNAL ZIP 4054
11400 BURNET ROAD
AUSTIN, TX 78758

COPY MAILED
JUN 3 0 2004
OFFICE OF PETITIONS

In re Application of	:	
Bernard Charles Drerup, et al.	:	
Application No. 10/418,593	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. AUS920020683US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 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 September 3, 2003.

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 future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

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

Retta Williams

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

cc: Anthony V.S. England
1717 West Sixth Street, Suite 230
Austin, TX 78703

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK, NY 10036-7311

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Jun KASHIMURA, et al	:	
Application No. 10/418,606	:	DECISION ON PETITION
Filed: April 18, 2003	:	TO WITHDRAW
Attorney Docket No. 132121	:	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 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Day Pitney LLP 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.

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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MITSUO MATSUI
MATSUI AND ASSOCIATES
NISHISHINBASHI YS BUILDING,
3F 19-2, NISHISHINBASHI 2-CHOME
MINATO-KU, TOKYO
JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 15 2009

OFFICE OF PETITIONS

In re Application of :
Jun KASHIMURA, et al :
Application No. 10/418,606 :
Filed: April 18, 2003 :
Attorney Docket No. 132121 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2009, 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 April 30, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 31, 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) the required statement of unintentional delay have been received.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1611 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: HIROO HAYASHI
MITSUI SUGAR CO., LTD.
8-2 NIHONBASHI HONCHO 2-CHOME
CHUO-KU,
TOKYO, 103-8423, JAPAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTOS TSIRONIS
FOCUS MICROWAVES INC.
1603 ST. REGIS
DOLLARD DER ORMEAUX, QC H9B 3H7
CANADA

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Tsironis, Christos	:	
Application No. 10/418,633	:	ON PETITION
Filed: April 21, 2003	:	
Title: **ACTIVE PREMATCHING TUNER SYSTEM**	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed September 1, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 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 Technology Center 2800 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTOS TSIRONIS
FOCUS MICROWAVES INC.
1603 ST. REGIS
DOLLARD DER ORMEAUX QC H9B3H-7
CANADA

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Christos Tsironis	:	
Application No. 10/418,633	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Title: ACTIVE PREMATCHING TUNER	:	
SYSTEM	:	

This is a decision on the petition filed January 23, 2006, to withdraw the holding of abandonment in the above-identified application.

On June 21, 2005, the Office mailed a non-responsive notice, which set a one-month or thirty day shortened statutory period, whichever was longer, to reply. On September 20, 2005, the Office mailed a communication to petitioner with a copy of the non-responsive notice of June 21, 2005. The application became abandoned on July 22, 2005, for failure to submit a timely and appropriate response. On January 9, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the Office communication.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the non-responsive notice of June 21, 2005 (or the communication of September 20, 2005), and in the absence of any irregularity in the mailing, there is a strong presumption that the Office communication was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself

of response due dates and show that the due date for the non-responsive amendment mailed on June 21, 2005, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering the period from June 21, 2005 through October 20, 2005 (which includes a one-month period from the date of the second communication mailed on September 20, 2005), to demonstrate nonreceipt of the non-responsive notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office communication, and where petitioner would have entered the receipt date of the Office communication had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from petitioner, or any other person at the address who may have handled the Office communication, indicating that a search was conducted of the location where correspondence from the USPTO is kept; however, the Office communication was not found. Lastly, petitioner must state that he was, in fact, receiving mail at the correspondence address of record through October 20, 2005.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Office communication. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. Copies of the Office communications of June 21, 2005, and September 20, 2005, accompany this decision for petitioner's convenience.

Any request for reconsideration of the dismissal of the petition to withdraw the holding of abandonment due to nonreceipt of the Office communication must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment," as well as statements and documentary evidence, as indicate above, to demonstrate nonreceipt of the Office communication. Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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. In nonprovisional utility application abandoned for failure to respond to a nonfinal Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

Petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST) for assistance. The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners, who answer general questions concerning patent examining policy and procedure.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64, Privacy Act Statement, and copies of Office communications dated June 21, 2005, and September 20, 2005.

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.
10/418,633	04/21/2003	Christos Tsironis		8888

7590 09/20/2005

CHRISTOS TSIRONIS
FOCUS MICROWAVES INC.
1603 ST. REGIS
DOLLARD DER ORMEAUX, QC H9B3H7
CANADA

EXAMINER
KARLSEN, ERNEST F

ART UNIT	PAPER NUMBER
2829	

DATE MAILED: 09/20/2005

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/418633			

EXAMINER

ART UNIT	PAPER
	20050915

DATE MAILED:

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

Commissioner for Patents

Applicant's attention is directed to the non-rensponsive notice of June 21, 2005 a copy of which is enclosed. The response of July 15, 2005 was not proper since no election of species was made. As stated in the non-responsive notice, the time period may be extended. The six month statutory period began on June 21, 2005 which was the mailing date of the non-responsive notice. If Applicant does not properly respond by December 21, 2005 this application will become abandoned. Any response filed after July 21, 2005 will be subject to the appropriate extension of time fee.

Ernest F. Karlsen
September 15, 2005

Ernest F. Karlsen
ERNEST KARLSEN
PRIMARY EXAMINER

Enclosure: copy of the office action of June 21, 2005

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.
10/418,633	04/21/2003	Christos Tsironis		8888

7590 06/21/2005

CHRISTOS TSIRONIS
FOCUS MICROWAVES INC.
1603 ST. REGIS
DOLLARD DER ORMEAUX, QC H9B3H7
CANADA

EXAMINER
KARLSEN, ERNEST F

ART UNIT	PAPER NUMBER
2829	

DATE MAILED: 06/21/2005

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	0605

DATE MAILED:

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

Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on February 28, 2005 is not fully responsive to the prior Office action because a species was not elected. Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.
Any inquiry concerning this communication should be directed to Ernest F. Karlsen at telephone number 571-272-1961.

Ernest F. Karlsen
June 16, 2005

Ernest F. Karlsen
ERNEST KARLSEN
PRIMARY EXAMINER

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

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ Signature	_____ Date
_____ Typed or printed name	_____ Registration Number, if applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES 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

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

COPY MAILED

JUL 22 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael R. McNamara and Paul A.	:	
Olson	:	
Application No. 10/418,638	:	DECISION ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No.:	:	
655-00050	:	
Title: ACM SOFFIT CLIP ASSEMBLY	:	

This is a decision on the petition filed June 24, 2003, requesting Figure thirteen (13) be accorded a filing date of April 18, 2003, as part of the original disclosure.

On April 18, 2003, the above-identified application was filed. On June 10, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice), advising applicant that the application appeared to have been deposited without Figure thirteen (13).

In response, on June 24, 2003, applicants filed the present petition. The petition is further accompanied by a complete copy of the application as filed, including the allegedly formerly missing Figure thirteen (13), along with an assertion that Figure thirteen (13) was originally included on filing. Applicants request that Figures thirteen (13) be accorded a filing date of April 18, 2003.

Upon review of the record, the above-mentioned figure has been located among the application papers.

Therefore, the application, including Figure thirteen (13) was complete on filing and entitled to a filing date of April 18, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The Notice mailed June 10, 2003 was sent in error. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 18, 2003, with Figure thirteen (13) as part of the original disclosure, using the original application papers filed on that date.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE CA 95125

MAIL

NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
James M. Barton, et al. :
Application No. 10/418,646 :
Filed: April 18, 2003 :
For: **DIGITAL VIDEO RECORDING SYSTEM WITH AN INTEGRATED DVD RECORDING DEVICE** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record received January 13, 2004.

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/Agent is **GRANTED**.

A new Power of attorney was filed by the assignee on April 14, 2004.
All Attorneys/agents associated with Customer Number 22862 are withdrawn.

All future communications from the Office will continue to be directed to the address listed above 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Krasimir D. KOLAROV, et al	:	
Application No. 10/418,649	:	DECISION ON PETITION
Filed: April 17, 2003	:	TO WITHDRAW
Attorney Docket No. DROPP002	:	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 2, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 there is no indication that the act noted above at item 2, has been performed.

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: STEVE SAUNDERS
DROPLET TECHNOLOGY, INC.
1600 ADAMS DRIVE, SUITE 216
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOSEPH R. KEATING
2811 NORBORNE PLACE
OAKTON, VA 22124

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Andrew Van Schaack :
Application No. 10/418,652 :
Filed: April 18, 2003 :
Attorney Docket No. 51422.1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 16, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 17, 2003.

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

This application 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
www.uspto.gov

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

COPY MAILED

MAR 3 1 2008

In re Application of	:	
EMBURY, Stephen H. et al.	:	
Application No. 10/418,653	:	DECISION ON PETITION
Filed: April 18, 2003	:	TO WITHDRAW
Attorney Docket No. **41172-8001**	:	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 07, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 19, 2007.

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- 4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MARILYN M. HUSTON, PH.D., J.D. OF WONG**
CABELLO LUTSCH RUTHERFORD & BRUCCULERI LLP
20333 SH 249
SUITE 600
HOUSTON, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IP AUTHORITY, LLC
RAMRAJ SOUNDARARAJAN
4821A EISENHOWER AVENUE
ALEXANDRIA, VA 22304

COPY MAILED

OCT 2 3 2007

OFFICE OF PETITIONS

In re Application of
FUH, et al.
Application No. 10/418,658
Filed: April 16, 2003
Attorney Docket No.
SVL920020102US2/2657P

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2192 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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 640640
SAN JOSE CA 95164-0640

COPY MAILED

FEB 29 2008

In re Application of	:	
Zhi Hong et al.	:	
Application No. 10/418,662	:	DECISION ON PETITION
Filed: April 17, 2003	:	TO WITHDRAW
Attorney Docket No. 6319-1021	:	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 26, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***assignee has appointed McDermott Will & Emery LLP, San Diego, CA (customer no. 41552) as new attorneys, to whom files have been transferred***, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDermott, Will & Emery**
4370 La Jolla Village Drive, Suite 700
San Diego, CA 92122

UNITED STATES 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

HAYNES AND BOONE LLP
1000 LOUISIANA
SUITE 4300
HOUSTON TX 77002

COPY MAILED

NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of Cook, et al. Application No. 10/418,687 Filed: April 18, 2003 Attorney Docket No. 25791.228	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53, filed August 8, 2003, to accord the above-identified application a filing date of April 18, 2003, with Figure 10g of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on April 18, 2003. However, on July 11, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a NonProvisional Application." Applicant was notified that the application papers had been accorded a filing date of April 8, 2003; however, Figure 10g of the drawings appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy of Figure 10g. Applicant maintains that the application as originally filed included this drawing figure. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Drawings (26 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of April 18, 2003, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 08-1394.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 18, 2003, using the application papers received in the Office on that date and Figure 10g of the drawings as resupplied on petition filed August 8, 2003.

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

Christina L. Donnell

Christina Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV. 15 2006

Director's Office
Group 3700

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA MI 48152

In re Application of:
FORTINO, RICHARD D. ET AL.
Serial No.: 10/418,693
Filed: April 18, 2003
Docket: PowellUS03NP
Title: VALVE CLOSURE SYSTEM AND VALVE CLOSURE ASSEMBLY

DECISION ON PETITION TO LIFT SUSPENSION

This is a decision on the petition filed on March 12, 2006 to withdraw the suspension issued on June 15, 2005 and issue the application.

The petition is **DISMISSED as moot**.

In his March 12, 2006 petition the applicant requested the withdrawal of the June 15, 2005 suspension and the issue of the application. In support of his petition, the applicant argues that the applicant has not received a response to his November 1, 2005 and January 30, 2006 status inquiries.

The record shows that:

1) On April 4, 2005 the applicant filed an appeal brief.
2) On June 15, 2005 the examiner issued an Action suspending prosecution for six months to wait for a reference relevant to the examination of the application.
3) On November 1, 2005 the applicant sent request to lift the June 15, 2005 suspension.
4) On January 30, 2006 the applicant sent a status inquiry to the examiner regarding the suspension.
5) On March 12, 2006 the applicant filed the present petition requesting that the suspension be lifted and the application issued.
6) On March 25, 2006 the examiner issued an answer to the applicant's April 4, 2005 appeal brief.
7) On May 30, 2006 the applicant filed a reply brief in response to the examiner's March 25, 2006 answer.
8) On June 16, 2006 the Board of Patent Appeals and Interferences vacated the examiner's March 25, 2006 answer as deficient.
9) On July 20, 2006 the examiner issued a corrected answer.

In view of the history, the application is in active prosecution. Therefore, the suspension has been lifted. However, the application cannot be issued until the resolution of the current appeal. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Allan Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 1 1 2006

Group 3700

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA MI 48152

In re Application of:
FORTINO, RICHARD D. ET AL.
Serial No.: 10/418,693
Filed: April 18, 2003
Docket: PowellUS03NP
Title: VALVE CLOSURE SYSTEM AND VALVE CLOSURE ASSEMBLY

DECISION ON PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 CFR 1.181

This is a decision on the petition filed on May 30, 2006 to invoke the supervisory authority of the Commissioner under 37 CFR 1.181.

The petition is DISMISSED.

In the May 30, 2006 petition, Petitioner requests some of the examiner's statements in the Examiner's Answer to be struck as Petitioner believes the statements to be incorrect and/or prejudicial to the appellant.

The record shows that:

1) On April 4, 2005 the applicant filed an appeal brief.
2) On March 24, 2006 a first Examiner's Answer was mailed.
3) On May 30, 2006 appellant filed a reply brief and the present petition.
4) On June 16, 2006 the Board remanded the Examiner's Answer to correct a procedural matter.
5) On July 20, 2006 a revised Examiner's Answer was mailed in compliance with the procedural matter.

Petitioner requests that the last two lines of page 6 and the entirety of page 7 of the first Examiner's Answer filed March 24, 2006 be struck. In the revised Examiner's Answer mailed July 20, 2006 the language at issue translates to the first full paragraph on page 7 to, and including, the first full paragraph of page 8.

MPEP 1207.02 states "The answer should contain a response to the allegations or arguments in the brief....." Moreover, as a second Examiner Note to Form Paragaph 12.161 (set forth in this section of the MPEP) "(10) Response to Argument", it is stated "2. If an issue has been raised by

appellant that was not fully responded to under "Grounds of Rejection to be Reviewed on Appeal," a full response must be provided after this form paragraph [by the examiner]".

Upon review of the file, the Examiner's statements in the Reply Brief are not seen as either inappropriate or improper but merely assertive in addressing appellant's arguments. The Examiner's Answer will stand as mailed July 20, 2006.

Upon the mailing of this decision, the application is being forwarded to the Board of Appeals.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA MI 48152

COPY MAILED
JAN 13 2009

In re Application of	:	
Richard D. Fortino, et al	:	
Application No. 10/418,693	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. PowellUS03NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 6, 2008. See MPEP 1214.06.

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).

A petition under 137(b) requires a reply. According to MPEP 1214.01(II) "By proceeding in this manner (requesting rehearing), the appellant waives his or her right to further prosecution before the examiner". As noted by the MPEP if applicant elects to request a rehearing, as he did, then there is no further prosecution before the examiner. Thus the Terminal Disclaimer filed September 26, 2008 for the examiner to consider is not a proper reply. The only "reply" that petitioner can submit is a request for continued application under 37 CFR 1.114 or request for judicial review (MPEP 1216).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA MI 48152

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Richard D. Fortino, et al :
Application No. 10/418,693 :
Filed: April 18, 2003 :
Attorney Docket No. PowellUS03NP :

CORRECTED DECISION
ON PETITION

This is a corrected decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 6, 2008. See MPEP 1214.06.

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).

A petition under 137(b) requires a reply. According to MPEP 1214.01(II) "By proceeding in this manner (requesting rehearing), the appellant waives his or her right to further prosecution before the examiner". As noted by the MPEP if applicant elects to request a rehearing, as he did, then there is no further prosecution before the examiner. Thus the Terminal Disclaimer filed September 26, 2008 for the examiner to consider is not a proper reply.

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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA MI 48152

COPY MAILED

JUN 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard D. Fortino, et al	:	CORRECTED DECISION
Application No. 10/418,693	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. PowellUS03NP	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 6, 2008. See MPEP 1214.06.

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).

A petition under 137(b) requires a reply. According to MPEP 1214.01(II) "By proceeding in this manner (requesting rehearing), the appellant waives his or her right to further prosecution before the examiner". As noted by the MPEP if applicant elects to request a rehearing, as he did, then there is no further prosecution before the examiner. Thus the Request for Continued Examination filed concurrently with the renewed petition is not a proper reply. The only "reply"

that petitioner can submit is a request for a judicial review (MPEP 1216) or a new application filed under 37 CFR 1.53(b) with a petition to revive this application continuity purposes.

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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA, MI 48152

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Richard D. Fortino, et al. :
Application No. 10/418,693 :
Filed: April 18, 2003 :
Attorney Docket No. PowellUS03NP :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2009, to revive the above-identified application.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 6, 2008. *See* MPEP 1214.06.

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 770; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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. 12/583,716.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland OR 97204

MAIL

DEC 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Joseph C. Ballantyne
Application Serial No.: 10/418,699
Filed: April 18, 2003
For: **LOCATING INFORMATION ON AN OPTICAL MEDIA DISC TO MAXIMIZE THE RATE OF TRANSFER**

DECISION
ON PETITION

This is a decision on the petition, filed on November 9, 2005 under 37 C.F.R. §1.181 requesting that the application be considered special and also requesting an expedited action on the merits.

A review of the continuity data of the instant application reveals that this application has been amended to reflect priority to application No. 09/282,582, filed March 31, 1999. Therefore, the instant application has an effective pendency of more than five years inasmuch as it is a continuation of application No. 09/282,582.

MPEP §708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is already considered special in accordance with PTO policy.

Accordingly, the petition is **<u>DISMISSED AS MOOT</u>**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

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
www.uspto.gov

ARNOLD S. WEINTRAUB
THE WEINTRAUB GROUP, P.L.C.
32000 NORTHWESTERN HIGHWAY
SUITE 240
FARMINGTON HILLS, MI 48334

COPY MAILED
DEC 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Othell Bickerstaff	:	
Application No. 10/418,709	:	DECISION ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. BOT 100-A-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed May 19, 2005, which set a three (3) month shortened statutory period for reply. No response was received within the allowable period, and the application became abandoned on August 20, 2005. A Notice of Abandonment was mailed only January 25, 2006.

The Notice of Appeal, filed August 24, 2006, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The Appeal Brief filed November 24, 2006, is noted.

The application file is being forwarded to Technology Center 1700, GAU 173393 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

COPY MAILED
JUN 14 2004
OFFICE OF PETITIONS

FOLEY & LARDNER
PO BOX 80278
SAN DIEGO CA 92138-0278

In re Application of	:	
Hillman, et al.	:	
Application No. 10/418,713	:	
Filed: April 17, 2003	:	DECISION ON PETITION
Attorney Docket No. 026471-0202	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed May 11, 2004.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on February 24, 2004. However, the US Patent and Trademark Office was unintentionally not notified of this filing 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.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt, indicating a projected publication date of September 23, 2004, accompanies this decision.

The application file is being forwarded Group Art Unit 2113 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/418,713	04/17/2003	Robert Allen Hillman	026471-0202

CONFIRMATION NO. 9360

OC000000012938418

OC000000012938418

30542
FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

Date Mailed: 06/14/2004

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 09/23/2004.

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 (703) 305-9282. 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

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

PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

COPY MAILED

NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Hongbin Fang et al. :
Application No. 10/418,728 :
Filed: April 18, 2003 :
Attorney's Docket No. :
AMAT/4714.P2/TCG/WCVD/PJS

ON PETITION

This is a decision on the petition filed September 6, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on October 29, 2003, for failure to timely reply to the Notice to File Missing Parts, mailed July 28, 2003, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed September 2, 2004.

The submission of the filing fees, excess claim fees and oath or declaration, as required by the Notice to File Missing Parts mailed July 28, 2003 is acknowledged. Please note that the fees have all been changed since the mailing of the Notice but all, including the late filing surcharge in the amount of $130.00 have been charged to deposit account no. 50-1074.

All other requirements having been met , this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 1 2006

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of	:
Margaret P. Opolski	:
Serial No.: 10/418,750	: PETITION DECISION
Filed: April 17, 2003	:
Attorney Docket No.: 2816.1001-009	:

This is in response to the petition under 37 CFR § 1.181, filed July 7, 2006, requesting that the finality of the Office action mailed May 31, 2006 be withdrawn.

BACKGROUND

A review of the file history shows that the examiner mailed a non-final Office action to applicant on January 12, 2006, setting forth a three-month shortened statutory period for reply in which claims 1-54 were rejected under 35 USC 102(e) as being anticipated by Verhoeven et al. The examiner also rejected claims 1-66 under 35 USC 101 as claiming the same invention as that of claims 1-66 of U.S. Patent No. 6,096,726. Claims 55-66 were also rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,683,062.

Applicant replied on March 13, 2006 and indicated that upon review of the Office action, it was clear the examiner had not considered the preliminary amendment of April 17, 2003. In any event, applicant did file a Terminal Disclaimer to overcome the obviousness-type double patenting rejection.

In response to applicant's remarks, the examiner mailed a final Office action on May 31, 2006, setting forth a three-month shortened statutory period for reply in which claims 67-96 (which were filed in the preliminary amendment) were rejected. Specifically, claims 93-96 were rejected under 35 USC 102(e) as being anticipated by Verhoeven et al. Claims 67, 79, 80, and 92 were rejected under 35 USC 101 as claiming the same invention as that of claims 55 and 61 of U.S. Patent No. 6,096,726; and claims 67-96 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,683,062. Claims 80-92 were also objected to under 37 CFR 1.75 as being substantial duplicates of claims 67-79.

Applicant filed this petition on July 7, 2006 in response thereto, requesting that the finality of the Office action mailed May 31, 2006 be withdrawn.

DISCUSSION

Applicant's petition that the finality of the Office action of May 31, 2006 be withdrawn on the basis that the preliminary amendment of April 17, 2003 canceling all original claims 1-66 and adding new claims 67-97 was not entered nor considered in the first Office action of January 12, 2006 is well taken. For this reason, the finality of the Office action of May 31, 2006 is in error.

DECISION

The petition is **GRANTED**. **The finality of the Office action mailed May 31, 2006 is withdrawn. The amendment and Terminal Disclaimer of July 7, 2006 is entered.**

The file will be forwarded to the examiner for further 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

COPY MAILED

MAR 3 1 2008

In re Application of

FJELSTAD, Joseph C. et al.
Application No. 10/418,762
Filed: April 17, 2003
Attorney Docket No. **SIPI.P102**

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 December 11, 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 Charles E. Shemwell on behalf of all attorneys of record who are associated with customer No. 30554. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to respond to the Office action mailed September 15, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOSEPH C. FJELSTAD**
28128 231ST PLACE SE
MAPLE VALLEY, WASHINGTON 98038

cc: **RONALD R. SHEA**
6244 ROYAL OAK COURT
SAN JOSE, CA 95123

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAMBI FAIVRE WALTERS
PO BOX 5743
WILLIAMSBURG, VA 23188

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Urban et al.	:	DECISION
Application No. 10/418,768	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket Number:	:	
02-BS065 (BS02464)	:	

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 22, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned October 23, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2614 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALTERS & ZIMMERMAN PLLC
P O BOX 3822
CARY, NC 27519

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:
Blake R. Urban et al	:
Application No. 10/418,768	: DECISION GRANTING PETITION
Filed: April 18, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02-BS065 (BS02464)	:

This is a decision on the petition, filed March 30, 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 5, 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 instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. David A. Fox appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Fox desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Fox, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

---

[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.*

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Cantor Colburn LLP - Bellsouth
55 Griffin Road South
Bloomfield, CT 06002

C:\Documents and Settings\FHicks\My Documents\470\Apr10\418768.wpd

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-08

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

COPY MAILED

MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Urban et al.	:	DECISION ON PETITION
Application Number: 10/418774	:	TO WITHDRAW HOLDING OF
Filing Date: 04/18/2003	:	ABANDONMENT
Attorney Docket Number: 02-	:	
BS066 (BS02465)	:	

This is a decision on the petition, filed on October 4, 2007, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed on April 21, 2006. A Notice of Abandonment was mailed on May 8, 2007.

Petitioner asserts that a proper response was in fact timely filed in the form of a Request for Continued Examination (RCE) and amendment as the submission under 37 CFR 1.114, filed on September 15, 2006, by petitioners' previous counsel, Bambi F. Walters. In support, petitioner has provided a copy of the RCE and amendment, including a request for a two (2) month extension of time, asserted to have been timely filed. The RCE Transmittal and amendment each contain a certificate of mailing, dated September 15, 2006, signed by Bambi Walters.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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 lacks item (3). Petitioners must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. Petitioners should provide a statement by the person who signed the Certificate of Mailing, attorney Bambi Walters.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

[1] 37 CFR 1.181(f).

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-08

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

COPY MAILED

JUN 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Urban et al.	:	DECISION ON PETITION
Application Number: 10/418774	:	TO WITHDRAW HOLDING OF
Filing Date: 04/18/2003	:	ABANDONMENT
Attorney Docket Number: 02-	:	
BS066 (BS02465)	:	

This is a decision on the renewed petition, filed on April 22, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed on April 21, 2006. A Notice of Abandonment was mailed on May 8, 2007.

A petition to withdraw the holding of abandonment was filed on October 4, 2007, whereby petitioner asserts that a proper response was in fact timely filed in the form of a Request for Continued Examination (RCE) and amendment as the submission under 37 CFR 1.114, filed on September 15, 2006, by petitioners' previous counsel, Bambi F. Walters. In support, petitioner has provided a copy of the RCE and amendment, including a request for a two (2) month extension of time, asserted to have been timely filed. The RCE Transmittal and amendment each contain a certificate of mailing, dated September 15, 2006, signed by Bambi Walters. On March 10, 2008, the petition was dismissed because no statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission had been provided.

On April 22, 2008, the subject renewed petition was provided. The petition is accompanied by a statement by registered patent practitioner Bambi F. Walters, in which she states that she

deposited the response to the final Office action with the USPS on September 15, 2006.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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 statement provided is considered to be a statement to the Satisfaction of the Director to the previous timely mailing or transmission of the reply.[1]

As petitioners have provided convincing evidence that a response to the final Office action mailed on April 21, 2006, was timely filed, the showing of record is that there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated. Any inconvenience caused to applicant is regretted.

---

[1] See 37 CFR 1.8(b)(3).

The RCE fee and two (2) month extension of time fee asserted to have been filed with the papers filed on September 15, 2006 (certificate of mailing date) will be charged to counsel's deposit account, as authorized in the initial petition filed on October 4, 2007.

The application is referred to Technology Center Art Unit 2614 for further processing.

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

DIWood

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

COPY MAILED

SEP 01 2009

OFFICE OF PETITIONS

Paper No.

JONES DAY for
Isis Pharmaceuticals, Inc.
222 East 41st Street
New York NY 10017-6702

In re Application of	:	
Crooke et al.	:	
Application No. 10/418,780	:	ON APPLICATION FOR
Filed: April 16, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. BIOL0004US	:	
Title: MODULATION OF	:	
APOLIPOPROTEIN C-III	:	
EXPRESSION	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 6, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is thirty-six (36) days, not zero (0) 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 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 regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ISIS PHARMACEUTICALS INC
1896 RUTHERFORD RD.
CARLSBAD, CA 92008

Mail Date: 04/21/2010

Applicant	: Rosanne M. Crooke	: DECISION ON REQUEST FOR
Patent Number	: 7598227	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/418,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST, SUITE 210
PONTIAC MI 48326

COPY MAILED

NOV 29 2006

OFFICE OF PETITIONS

In re Application of
SCHWARZWALDER, et al.
Application No. 10/418,784
Filed: April 18, 2003
Attorney Docket No. 1049.016C1

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed February 24, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request was signed by inventor Matthew P. Macker. The following attorneys have been appointed in accordance with § 1.32(b) and are now of record; Eric Dobrusin, Scott Chapple, Jenny Lee, James McPherson and Hattem Beydoun.

The correspondence address of record remains unchanged. There is an outstanding Office action mailed October 18, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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
10/418,784	04/18/2003	Kurt Schwarzwalder	1049.016C1

CONFIRMATION NO. 1446

OC000000021390324

25215
DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC, MI 48326

Date Mailed: 11/28/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/24/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV - 2 2005

SHUGHART THOMSON & KILROY, PC
120 WEST 12TH STREET
KANSAS CITY, MO 64105

In re Application of
JAMES KING ET AL.
Application No. 10/418,798
Filed: April 17, 2003
For: TRUCK TAILGATE EXTENSION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition for Revival of an Unavoidably Abandoned Application which is being treated as a Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on August 26, 2004. There is no fee for this Petition.

A review of the record shows a Notice of Abandonment was mailed on August 4, 2004 for failure to respond to the Restriction requirement mailed January 6, 2004, which set a one-month extendable period for reply.

The petition is **GRANTED** in view of the timely filed original response, received February 6, 2004. Applicants point out in the petition that the reason applicants placed the wrong serial number on the response filed on February 6, 2004, was based on the fact that the returned postcard (submitted in the Petition as Exhibit A by applicants) received from the Office indicated that serial no. 10/418,799 was the serial number assigned to applicants' application. Applicants later received a filing receipt on June 30, 2003 (mailed by the Office on June 25, 2003) which indicated that applicants' application was serial no. 10/418,798 which was different from the serial number listed on the returned post card. The Office mailed out a Notice of Corrected Application Number on January 29, 2004 which indicated that serial no. 10/418,798 is the proper serial number for applicants' application. However, applicants filed a response to the Restriction requirement before the Notice of Corrected Application Number was received. The original response was not promptly matched with the file since the response incorrectly identified the application as serial number 10/418,799. The original response was placed in serial no. 10/418,799.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and to the forward the application to the examiner for prompt action.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg 10/12/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

QUALCOMM INCORPORATED
PATENT DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Leonid Sheynblat :
Application No. 10/418,799 :
Filed: April 18, 2003 :
Attorney Docket No. 020243 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application mailed June 25, 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) was obtained. Accordingly, the above-identified application became abandoned on August 26, 2003.

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

Receipt is acknowledged of the Information Disclosure Statement filed January 28, 2005, with the instant petition.

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

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

Paper No. 8

LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY MO 64108

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of
Kranz
Application No. 10/418,802
Filed: April 18, 2003
Attorney Docket No. 408856
For: ENVELOPE HAVING IMPROVED OVERLAP PROFILE

DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2005, to revive the above-identified application. Because petitioner alleges non-receipt, the petition will also be treated under 37 CFR 1.181 as a feeless withdrawal of the holding of abandonment petition.

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed July 7, 2003, which set an extendable two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on September 8, 2003. A Notice of Abandonment was mailed on September 1, 2004. Petitioner asserts that the July 7, 2003 Notice was not received at the correspondence address of record.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the July 7, 2003 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has not proven nonreceipt because (1) practitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

The constructive petition under 37 CFR 1.181 is dismissed.

PETITION UNDER 37 CFR 1.137(b) TO REVIVE THE APPLICATION

The instant petition contains the required declaration and surcharge for filing a late declaration, an acceptable statement regarding the unintentional nature of the delay in responding to the July 7, 2003 Notice, and the petition fee.[2]

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

After the mailing of this decision, the application 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) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

---

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

[2] Regarding finances, pursuant to petitioner's authorization, deposit account no. 12-0600 will be charged the required $1,500.00 petition to revive fee and $130.00 surcharge for filing a late declaration.

SPE C. Friedman

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06/20/06

DATE : 5/3/06

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/448,810 Patent No.: 6922949

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: _____

Carl D. Friedman
Supervisory Patent Examiner
Group 3600
SPE

3635
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 15, 2006

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction on Patent No.: 6,968,599/Appl.10/418,811

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:

_____

_____

_____

_____

_____

SPE — **Art Unit** 3677

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL D. STEIN
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Shawn Cartwright	:	DECISION ON PETITION
Application No. 10/418,815	:	TO WITHDRAW
Filed: April 18, 2003	:	FROM RECORD
Attorney Docket No. 053914-5001US	:	

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 28, 2005.

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

A review of the file record indicates that on May 18, 2006 the power of attorney to Woodcock Washburn 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: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia PA 19103-2921

UNITED STATES 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.

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

COPY MAILED

NOV 1 7 2004

OFFICE OF PETITIONS

In re Application of
Valentin M. Gelikonov, et al. :
Application No. 10/418,839 : ON PETITION
Filed: April 18, 2003 :
Attorney Docket No. 32929US1 :

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

The petition is **GRANTED**.

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

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2877 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 032106

DATE : 03/07/06

TO SPE OF : ART UNIT **2877**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/418839 6903854

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

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

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

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

Comments:

Gregory J. Toatley, Jr.
Supervisory Patent Examiner
SPE

2877
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

TAROLLI, DUNDHEIM, COVELL & TUMMINO
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND OH 44114

In re Application of	:	
Peter James Hadinger	:	
Application No. 10/418,840	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. NG(ST)-6314	:	

This is a decision on the petition, filed January 24, 2005, which is being treated as a Petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Office letter mailed April 8, 2004.

The petitioner has submitted a copy of the page of the response mailed on June 14, 2004, showing a Certificate of Mailing executed on June 14, 2004, and a copy of the postcard identifying the papers filed and showing the USPTO receipt stamp dated June 16, 2004. However, the papers submitted on June 16, 2004, referenced Application No. 10/481,840 rather than 10/418,840.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This matter is being referred to Technology Art Unit 3742.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

12-14-06

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

Patent No. : 6,936,007
Ser. No. : 10,418,845
Inventor(s) : Roger J. Quy
Issued : August 30, 2005
Title : METHOD AND APPARATUS FOR HEALTH AND DISEASE MANAGEMENT COMBINING PATIENT DATA MONITORING WITH WIRELESS INTERNET CONNECTIVITY
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Mark D. Wieczorek
Mayer & Williams PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 10 2004

THE FIRM OF HUESCHEN AND SAGE
500 COLUMBIA PLAZA
350 EAST MICHIGAN AVENUE
KALAMAZOO MI 49007

In re Application of	:
Mathias Ackermann	:
Serial No.: 10/418,854	: PETITION TO MAKE SPECIAL
Filed: April 18, 2003	:
Attorney Docket No.: BN-44	:

This is in response to applicants' petition filed with the application on April 18, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). This petition could not be acted on until initial processing was completed and the application assigned to a Technology Center which occurred only recently.

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

> XI. INVENTIONS FOR COUNTERING TERRORISM
> In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter- terrorism inventions.
> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnaping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 _CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. **The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.**

Applicants present reasons for making the application special, as required with respect to bioterrorism.

Therefor the petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Norman E. Carte
611 Anton Blvd., Fourteenth Floor
Costa Mesa CA 92626

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of
Nicholas Bassill et al.
Application No. 10/418,863
Filed: April 17, 2003
Attorney Docket No.: LUX1.PAD.O5
Title: INDUCTION HEATING AND CONTROL SYSTEM AND METHOD WITH HIGH RELIABILITY AND ADVANCED PERFORMANCE FEATURES

DECISION ON PETITIONS UNDER 37 C.F.R. §§ 1.181(a) and 1.137(b)

This is a decision on the petitions under 37 C.F.R. §1.181(a) and 37 CFR §1.137(b)[1], filed May 21, 2004 and April 6, 2005, respectively, to have the holding of abandonment withdrawn and to revive the above-identified application.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed October 23, 2003, which set a shortened statutory period to reply for one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on November 24, 2003.

The petition under 37 C.F.R. §1.181(a), submitted on May 21, 2004:

Petitioner has asserted that the communication of October 23, 2003 was never received. MPEP 711.03(c) states, in part:

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.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

Petitioner has failed to establish non-receipt of an Office communication. Petitioner has asserted that a search of the file jacket and the docket records was completed. However, the "Status Summary" Petitioner has supplied fails to establish non-receipt of the Office communication. The submission does not serve as a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The printout is associated with the present file, as indicated by the title "Induction Heating and Control System and Method with" and the serial number "10/418863," whereas a docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. Hence, the submitted status summary, which is associated with the present file, fails to show the correspondence at issue was not received, and merely misplaced and filed with another file.

As such, Petitioner has not established non-receipt of the communication.

The petition under 37 C.F.R. §1.181(a) is **DISMISSED**.

The petition under 37 C.F.R. §1.137(b), submitted on April 6, 2005:

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

With the present petition, Petitioner has submitted an election, and a statement which is being construed as the proper statement of unintentional delay. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

In summary, the petition under 37 C.F.R. §1.181(a) is dismissed, and the petition under 37 C.F.R. §1.137(b) is granted.

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

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. 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

2 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).

discovery that the delay in paying the maintenance fee under 37 CFR §1.137(b) was intentional, petitioner must notify the Office.

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

cc: MacPherson Kwok Chen & Heid LLP
1762 Technology Drive, Suite 226
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 03 2008

OFFICE OF PETITIONS

YAO SUN
18009 Royal Bonnet Circle
Montgomery Village MD 20886

In re Application of
Sun, et al.
Application No. 10/418,865
Filed: April 21, 2003
Attorney Docket No.

ON PETITION

This is a decision on the communication filed May 24, 2006, which will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The record reflects that a Notice of Non-Compliant Amendment was mailed June 23, 2005, allowing a shortened period for reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on July 24, 2005. A Notice of Abandonement was mailed on May 10, 2006.

Petitioner maintains that a response was mailed on July 7, 2005, but was not noted by the USPTO.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of

abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner has not provided *prima facie* evidence that the reply was deposited with the USPS Express Mail Service within the period for reply, and has not provided a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard showing that the reply was filed or deposited in the mail on, or before, July 23, 2005. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) (enclosed) must be accompanied by the required reply, the required petition fee ($1540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

It is noted that the subject application has three joint inventors of record. Yet, the petition was signed by only inventor Sun. Petitioner is cautioned that any action taken in this application must be signed off by the all of the joint inventors,--unless status under 37 CFR 1.47 is accorded the application--, or a registered attorney that is of record in the application, or an assignee empowered pursuant to 37 CFR 3.73(b). All future requests for relief, including a renewed petition or a petition under 37 CFR 1.137(b) must be signed appropriately.

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

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosed: Form PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 1 0 2008

OFFICE OF PETITIONS

UNISYS CORPORATION
Unisys Way
Mail Station E8-114
Blue Bell PA 19424

In re Application of	:	
Douglas A. Fuller, et. al.	:	
Application No. 10/418,887	:	DECISION ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. RA-5513	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before October 10, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 10, 2008. Accordingly, the date of abandonment of this application is October 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; 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 Denise Williams at (571) 272-8930.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Charles A. Johnson
2470 Highcrest Road MS 4773
Roseville, MN 55113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED

JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Deasis et al. :
Application No. 10/418,889 :
Filed: April 18, 2003 : ON PETITION
Title of Invention: :
METHOD AND APPARATUS FOR :
SECURING A HANDLE :
TO A KNIFE TANG :

This is a decision on the Petition Under 37 CFR 1.182/1.183 for Waiver of a PTO Rule and a Declaration That Adoption of Suggested Claims Were Timely Filed, filed February 3, 2005. The petition is properly treated as a petition under 37 CFR 1.183[1]. Applicant alternatively requests relief under 37 CFR 1.137(b).

The petitions under 37 CFR 1.183 and 37 CFR 1.137(b) are dismissed. This is not a final agency action.

Applicant requests that the non-extendable statutory period to respond to the non-final Office action mailed October 5, 2004, for copying suggested claims for purposes of interference, be waived. Applicant asserts that the denial of Applicant's request will result in unjust and inequitable consequences to Applicant, as well as injury to the public interest. Applicant alternatively requests that his inability to respond within the shortened statutory period be deemed an unintentional abandonment. Applicant states that the delay in responding to the Office action was as a result of a number of extraordinary and uncommon events, including the departure of the original responsible attorney, an extended vacation of the covering attorney, and the failure of the docketing procedure. The gist of Applicant's petition is that the delay in submitting the copied claims be excused.

[1] A petition under 37 CFR 1.182 is filed to address "[a]ll situations not specifically provided for in the regulations…." Here, Applicant requests waiver of a PTO rule under 37 CFR 1.183.

As set forth in MPEP 2305.01:

> "If the applicant does not present the suggested claim by the expiration of the period fixed for its presentation, the examiner should then reject those claims which were previously stated as being unpatentable over the suggested claim on the basis that the failure to present constituted a concession that the subject matter of those claims is the prior invention of another in this country under 35 U.S.C. 102(g) and thus prior art to the applicant under 35 U.S.C. 103. *In re Oguie*, 517 F.2d 1382, 186 USPQ 227 (CCPA 1975)."

Petitioner fails to appreciate the distinction between a delay, and any loss of right resulting from that delay. In this regard, as set forth in the MPEP 710.02(d):

> Examiners and applicants should not lose sight of the distinction between a specified time for a particular action and a shortened statutory period for reply under 35 U.S.C. 133:
> (A) The penalty attaching to failure to take a particular action within a specified time is a loss of rights in regard to the particular matter (e.g., the failure to timely copy suggested claims results in a disclaimer of the involved subject matter). On the other hand, a failure to reply within the set statutory period under 35 U.S.C. 133 results in abandonment of the entire application. Abandonment of an application is not appealable, but a petition to revive may be granted if the delay was unavoidable (37 CFR 1.137(a)) or unintentional (37 CFR 1.137(b)).

While it may be possible, on petition, to excuse the delay herein, it is not seen, nor has petitioner demonstrated, that any concomitant loss of right caused by that delay in this case may be remedied on petition. Rather, it is now judicial doctrine that an applicant's failure to timely copy claims which the applicant could make is a concession that the subject matter of those claims is the prior invention of another 35 U.S.C. § 102(g) and thus prior art under 35 U.S.C. § 103. See Oguie supra.

37 CFR 1.183, by its terms, provides that the PTO cannot waive a requirement of statute. The PTO has no authority to make rules/rulings that are inconsistent with law (35 U.S.C. § 6(a)), which includes decisional law.[2] Rather, the appropriateness of any forthcoming rejection based on an Oguie concession or disclaimer, or any forthcoming interference, must be reviewed by way of appeal, not by way of petition. See 35 U.S.C. §§ 141 et seq.

It is brought to petitioner's attention that a standard principle of statutory construction is that, absent legislative intent to the contrary, when a statute provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n of R.R. Passengers, 414 U.S. 453, 458 (1974). Since 35 U.S.C. § 134 provides petitioner with a specific remedy for seeking review of any forthcoming rejection based on a possible Oguie concession/disclaimer, and 35 U.S.C. § 135 provides for any forthcoming interference, it would be inappropriate to fashion yet another remedy under 37 CFR 1.183 or 37 CFR 1.137.

Even assuming, *arguendo*, that 37 CFR 1.183 is an appropriate avenue for seeking the requested relief, suspension of the rules under 37 CFR § 1.183 may be granted only in an "extraordinary situation, when justice requires." The facts presented on the record simply do not establish an extraordinary situation.

Petitioner is reminded that it is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between matters which are appealable, and those which are petitionable. MPEP 1201. It is well settled that the Commissioner will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board of Patent Appeals and Interferences, which militates away from considering the relief requested under 37 CFR 1.183, as opposed to by way of 37 CFR 1.191 et seq, or by way of 37 CFR 1.601 et seq. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

---

[2] For example, the PTO cannot "waive" the requirement for a terminal disclaimer to overcome a double patenting rejection, which rejection arises from a judicially created doctrine.

Inspection of the Office action of October 5, 2004 reveals that the first paragragh of the first page of the body of the action entitled "Detailed Action", served to reasonably put petitioner on notice of a possible interference, and also of the shortened period for presenting a copied claim. Further inspection of the Office action of October 5, 2004 reveals that the second paragraph, commencing on page 7 of the Office action, put Applicant on notice as to the consequences of any failure to timely present that claim. There is no adequate showing that the belated filing of the copied claim was caused or contributed to by circumstances beyond Applicant's, or Applicant's voluntarily chosen representatives', control. Thus, in weighing Applicant's and/or Applicant's voluntarily chosen representatives' contribution to Applicant's failure to realize the urgency for presenting a copied claim against any other contributing factor, waiver of the one month time limit pursuant to 37 CFR 1.183 in this situation is not justified--even assuming such could be done.

Applicant is advised that delay resulting from the inadvertence or mistake of Applicant, or Applicant's counsel, does not warrant equitable tolling of the one month time period of 37 CFR 1.605(a). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex parte Sassin, 1906 Dec. Comm'r Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc.,510 F.2d 963, 184 USPQ 744 (CCPA 1975).

Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the requirements set forth in 37 CFR 1.97(d). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers). A situation that could have been avoided by a party following the established rules and procedures does not constitute "an extraordinary situation" in which "justice requires" a waiver of the regulations. Id. Circumstances resulting from Applicant's, or Applicant's counsels', failure to

exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977). Moreover, even assuming that clerical inadvertence or mistake caused or contributed to the asserted docketing error, such is not adequate grounds for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994) (clerical error causing delay resulting in a statutory bar does not warrant suspension of the rules).

This file is being referred to Technology Center 3724 for continued processing.

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: 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 (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY -6 2005

In re Application of	:	
Richard S. Chomik	:	
Serial No. 10/418,895	:	DECISION ON
Filed: April 17, 2003	:	PETITION TO WITHDRAW
For: ODOR TRANSMISSION-RESISTANT	:	AS ATTORNEY
POLYMERIC FILM	:	

By papers filed on February 11, 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. Charles Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle
One Landmark Square, 10th Floor.
Stamford, CT 06901

Donna Magahe

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

Mr. Richard Gingras
1171 Chemin Dion
St-Nicolas QC G7A 2B5
CANADA

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Gingras, et al.
Application No. 10/418,917
Filed: April 21, 2003
Attorney Docket No. N/A
For: GROUND SHOE ASSEMBLY FOR A SNOWBLOWER MOUNTED TO A TRACTOR

ON PETITION

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

The petition is **dismissed**.

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

The above-identified application became abandoned for failure to properly reply to the non-final Office action of April 30, 2004, which set a shortened statutory period for reply of three (3) months to reply. Extensions of time were available under 37 CFR 1.136(a). A timely reply was received on July 6, 2004. However, this reply was deemed informal/non-responsive in a letter from the Office dated July 26, 2004. Petitioners were afforded one month from the mail date of the Office letter or the expiration of the original period to reply (from April 30, 2004) to reply. On August 19, 2004, petitioners filed another amendment which was deemed noncompliant in an Office letter dated August 31, 2004. Once again, petitioners were given one month from the mail date of the Office letter to file a proper reply. Petitioners filed an amendment on October 1, 2004. This amendment was filed beyond the one month deadline to file a reply and it was not a proper reply, as stated in the April 11, 2005 Notice of Abandonment. This application became abandoned on October 1, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Regarding (1) above, the amendment to the claims is not in compliance with 37 CFR 1.121. The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When claims are added, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). 37 CFR 1.126.

In the instant case, applicant canceled claims 1-4, retained claim 5, canceled claims 6-11, and **then re-presented claim 11 as new claim 6**. It is improper to renumber the new claim as claim 6. The new claim should be numbered as claim 12.

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> 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.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp.

314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioners have provided no explanation as to why the delay in timely submitting a fully responsive amendment was unavoidable. It is apparent from the record that petitioners did not understand Office rules regarding amendment practice.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Regarding fees, 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 $ 60.00 extension of time submitted with the petition on May 10, 2005 was subsequent to the maximum period obtainable for reply, it will be refunded via a treasury check that will be scheduled shortly.

ALTERNATE VENUE

Petitioners are strongly encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For

petitioners' convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/64 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

COPY MAILED
JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Sayers et al.	:	DECISION GRANTING
Application No. 10/418,955	:	STATUS UNDER
Filed: April 17, 2003	:	37 CFR 1.47
For: LED HEADLAMP ARRAY	:	

This is in response to a Petition Under 37 CFR 1.47, filed November 26, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

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, Scott West, 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 inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. SCOTT WEST
20000 VICTOR PARKWAY
SUITE 100
LIVONIA MI 48152

COPY MAILED
JUL 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Sayers et al.	:	LETTER
Application No. 10/418,955	:	
Filed: April 17, 2003	:	
For: LED HEADLAMP ARRAY	:	

Dear Mr. West:

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
Attorney
Office of Petitions

cc: VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

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.
10/418,955	04/17/2003	Edwin Mitchell Sayers	10541-1491	9203

29074 7590 09/27/2006

VISTEON
C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

EXAMINER
TSIDULKO, MARK

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 09/27/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 2 7 2006

Director's Office
Office of Patent Publication

JANET A. PIOILI
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of: Edwin M. Sayers et al.	:	**DECISION ON PETITION**
Application No: 10/418,955	:	**UNDER 37 C.F.R. § 1.84(a)**
Filed: April 17, 2003	:	
Attorney Docket No.: 10541-1491	:	
For: LED HEADLAMP ARRAY	:	

This is a decision on the Petition under 37 C.F.R. § 1.84(a)(2), filed on November 26, 2003, requesting acceptance of color drawings. As 37 C.F.R. § 1.84(a)(2), with respect to color drawings, specifically incorporates the requirements set forth in 37 C.F.R. § 1.84(a)(2), those requirements are set forth and applied below.

The petition requests that the color drawings, specifically figures 8 and 9, be accepted as formal drawings in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of 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 patent or application file contains at least one drawing executed in color. Copies of this patent or application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition meets the above requirements and is **GRANTED**. The application file is being forwarded to Office of Patent Publication to resume prosecution.

Inquiries related to the decision may be directed to Supervisory Patent Examiner Tariq R. Hafiz at (571) 72-6729.

Tariq Hafiz, Supervisory Patent Examiner
Technology Center 3600
(571) 272-5350

PET DEC

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VP
PAPER NO. ___

JUN 23 2004

In re Application of
Blaine Harris et al.
Serial Number: 10/418,956
Filed: April 18, 2003
For: PROVIDING CUSTOMIZED TEXT AND IMAGERY ON ORGANIC PRODUCTS

PETITION UNDER MPEP 708.02 VIII

This is in response to the Petition to Make Special filed March 1, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

William A. Krynski, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

UNITED STATES 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

THE HECKER LAW GROUP
SUITE #2300
1925 CENTURY PARK EAST
LOS ANGELES CA 90067

COPY MAILED
DEC 04 2003
OFFICE OF PETITIONS

In re Application of	:
Oliver and Perches	: DECISION REFUSING STATUS
Application No. 10/418,957	: UNDER 37 CFR 1.47(a)
Filed: 18 April, 2003	:
Atty Docket No. 80710.917	:

This is in response to the petition filed under 37 CFR 1.47(a) on 20 October, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 18 April, 2003, without an executed oath or declaration.

Accordingly, on 18 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing as well as a substitute specification. A two (2)-month period for reply was set.

In response, on 20 October, 2003 (certificate of mailing date 17 October, 2003), petitioners supplied a declaration naming Andy Oliver and Joe Perches as joint inventors and signed by joint Oliver on behalf of himself and joint inventor Perches. The present petition was also filed, along with a two (2) month extension of time and a substitute specification.

Petitioners state that a copy of the application was sent to the non-signing inventors, but that the non-signing inventor refused to sign the declaration during a telephone call with petitioners' registered patent attorney, Gary A. Hecker.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 because it does not list the citizenship, mailing address and residence of the non-signing inventor. A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[1] Additionally, in situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary.[2] The mailing address, residence address, if different than where the inventor customarily receives mail, and citizenship of the non-signing inventor must be provided on the oath or declaration. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the signing inventors on behalf of themselves and the non-signing inventors must be provided with any renewed petition.

---

[1] 35 U.S.C. § 115, MPEP 605.01.

[2] See MPEP 605.03.

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 02-04

Paper No. 8

THE HECKER LAW GROUP
SUITE #2300
1925 CENTURY PARK EAST
LOS ANGELES CA 90067

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of	:
Oliver and Perches	: DECISION REFUSING STATUS
Application No. 10/418,957	: UNDER 37 CFR 1.47(a)
Filed: 18 April, 2003	:
Atty Docket No. 80710.917	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 4 February, 2004.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 18 April, 2003, without an executed oath or declaration.

Accordingly, on 18 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration and a surcharge for its late filing as well as a substitute specification. A two (2)-month period for reply was set.

In response, on 20 October, 2003 (certificate of mailing date 17 October, 2003), petitioners supplied a declaration naming Andy Oliver and Joe Perches as joint inventors and signed by joint Oliver on behalf of himself and joint inventor Perches. The petition filed on 20 October, 2003, was dismissed on 4 December, 2003.

The present renewed petition on 4 February, 2004, along with a supplemental declaration.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

In regards to item (2), above, the declaration filed with the renewed petition does not meet the requirements of 37 CFR 1.63 because it contains uninitiated/undated alterations on both the first and signature pages of the declaration.[1] Additionally, it is noted that petitioners have altered the signature block to indicate that both inventors are "co-inventors". While there is no provision in the rules for the filing of an application by "co-inventors," an application may be filed by joint inventors when an invention is made by two or more persons jointly.[2] Petitioners are reminded that the order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration.[3] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing the residence, mailing address, and citizenship of all of the inventors and signed by the signing inventors on behalf of themselves and the non-signing inventors must be provided with any renewed petition.

---

[1] See 37 CFR 1.52(c).

[2] 35 U.S.C. 116; MPEP 605.07

[3] MPEP 605.04(f).

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

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

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

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

THE HECKER LAW GROUP
SUITE #2300
1925 CENTURY PARK EAST
LOS ANGELES CA 90067

COPY MAILED

MAR 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Oliver and Perches	:	DECISION ACCORDING STATUS
Application No. 10/418,957	:	UNDER 37 CFR 1.47(a)
Filed: 18 April, 2003	:	
Atty Docket No. 80710.917	:	

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 19 March, 2004.

The petition is **GRANTED**.

Petitioners have shown that non-signing joint inventor Joe Perches has refused to join in the filing of this application. Specifically, petitioners have shown that a copy of the application papers was sent to joint inventor Perches, but that he refused orally during a telephone call with petitioners' registered patent attorney, Gary A. Hecker, to sign and return the declaration.

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 Declaration. 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 related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

COPY MAILED

SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Vincent and Knight	:
Application No. 10/418,960	: DECISION REFUSING STATUS
Filed: 18 April, 2003	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 1-24449	:

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 21 July, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 18 April, 2003, without an executed oath or declaration. Accordingly, on 20 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring the statutory basic filing fee, an executed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set.

---

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

In response, on 21 July, 2003, the present petition was filed, along with the basic filing fee and a declaration naming Kenneth Vincent and Peter J. Knight as joint inventors and signed by joint inventor Vincent on behalf of himself and joint inventor Knight.

Petitioners assert that they are unable to contact Knight since he left his former employer.

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

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

The petition lacks item (1).

In regards to item (1), petitioners have not provided proof that Knight was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). It is noted that the petition states that no forwarding address was left for Knight. However, in order for a Rule 47 petition to be granted, the inventor **must** be sent or given a copy of the application papers. Petitioners should sent a copy of the application papers to Knight's last known address.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

COPY MAILED

NOV 14 2003

OFFICE OF PETITIONS

In re Application of	:
Vincent and Knight	: DECISION ACCORDING STATUS
Application No. 10/418,960	: UNDER 37 CFR 1.47(a)
Filed: 18 April, 2003	:
Atty Docket No. 1-24449	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 November, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located. Specifically, petitioners have shown that a copy of the application papers were sent to the last known address of the non-signing inventor via courier service, but were returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 11-03

Peter J. Knight
12 The Fordrough
West Heath
Birmingham, B31 3LX
UNITED KINGDOM

COPY MAILED

NOV 14 2003

OFFICE OF PETITIONS

In re Application of
Vincent et al.
Application No. 10/418,960
Filed: 18 April, 2003
For: FAST CURRENT CONTROL OF INDUCTIVE LOADS

Dear Mr. Knight:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POWELL GOLDSTEIN LLP
ONE ATLANTIC CENTER
FOURTEENTH FLOOR 1201 WEST PEACHTREE STREET NW
ATLANTA, GA 30309-3488

COPY MAILED
AUG 22 2005
OFFICE OF PETITIONS

In re Application of :
Jeffrey L. Cope :
Application No. 10/418,971 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No.:0397-1.1 :

This is a decision on the petition under 37 CFR 1.182, filed July 13, 2005, requesting that the filing date for the above-cited application be changed to April 18, 2003.

The petition is **granted.**

On April 18, 2003, the above-identified application was filed. However, on August 15, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that application had not been accorded a filing date because no specification was found. In response, on September 2, 2003, applicant a specification and declaration, but no petition under 37 CFR 1.182 requesting the original filing date on the basis of an incorporation by reference statement. The application filing date was changed to September 2, 2003, accordingly. Petitioner is now requesting that the application filing date be restored to April 18, 2003, because the subject application incorporated by reference the entire disclosure of a prior application that contained the specification that applicant failed to file on April 18, 2003.

With few exceptions, the filing date accorded a nonprovisional application is the date on which the specification, at least on claim, and any drawing required are filed. See 37 CFR 1.53(b). The record reflects that the subject application was not accorded a filing date because no specification was found with the original application papers and that application was accorded a filing date of September 2, 2003—the date the specification and claims were filed. Petitioner can rely on the incorporation by reference statement to incorporate from a prior filed application essential material necessary to receive a filing date.[1] Further to this point, section 201.06(c) of the *Manual of Patent Examining Procedure* (MPEP), provides, in pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. A petition under 37 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment,

[1] It is also noted that 37 CFR 1.57 is not applicable because this application was filed after September 21, 2004—the effective date for this provision.

> be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.

A proper incorporation by reference statement was found on the application transmittal sheet. Based on the above-cited section of the MPEP, it is appropriate to grant the petition and restore the application filing date to April 18, 2003. It is noted that a final rejection has been issued in this application, but it is also noted that the prosecution history thus far is based on the previously filed specification, claims, and amendments requesting entry of the same. Accordingly, having met all the requirements for incorporating essential material and the amendments requesting entry of the specification having been previously entered, the petition is granted.

The application is being directed to the Office of Initial Patent Examination for further processing with a filing date of April 18, 2003, and issuance of a corrected filing receipt. Thereafter, the application will be directed to Technology Center 3700, GAU 3711, for further processing.

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

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

Paper No. 6

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

OCT 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Herz, et al.	:	DECISION
Application No. 10/418,983	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2005, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed June 12, 2003, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 13, 2003. A Notice of Abandonment was mailed on September 1, 2004.

Applicants have submitted a proper reply in the form of an executed declaration and late declaration surcharge, an acceptable statement of the unintentional nature of the delay in responding to the June 12, 2003 Notice, and the petition fee.[1] Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

---

[1] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUARLES & BRADY LLP
TWO NORTH CENTRAL AVENUE
ONE RENAISSANCE SQUARE
PHOENIX AZ 85004-2391

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of	:	
LEE, Ernest et al.	:	
Application No. 10/418,989	:	DECISION ON PETITION
Filed: April 18, 2003	:	TO WITHDRAW
Attorney Docket No. **TPN-001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, patent application has been transferred to new attorney, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BRAD DESANDRO**
QUARLES AND BRADY LLP
TWO N. CENTRAL AVENUE
ONE RENAISSANCE SQUARE
PHOENIX, AZ 85004-2391

UNITED STATES 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-05

MOSER IP LAW GROUP / APPLIED MATERIALS, INC.
1040 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

COPY MAILED

DEC 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Nallan et al.	:	DECISION ON PETITION
Application No. 10/418,994	:	UNDER 37 CFR 1.78(a)(3)
Filed: 17 April, 2003	:	
Atty Docket No. AMAT	:	
8331/ETCH/METAL-NVM/	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 28 September, 2005, 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.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the 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 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(s) 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(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1765 for appropriate action on the amendment filed 28 September,

2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 09/25/08

Patent No. : 7177691 B2
Ser. No. : 10/419,002
Inventor(s) : MEADOWS, PAUL M.
Issued : 02/13/07
Title : **IMPLANTABLE PULSE GENERATORS USING RECHARGEABLE ZERO-VOLT TECHNOLOGY LITHIUM-ION BATTERIES**
Docket No. : **05-00864-04**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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.

Lamont M. Newsome

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

ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA CA 91355

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Robert A. Dixon et al.
Application No. 10/419,011
Filed: April 18, 2003
Attorney Docket No. DIX2035-005

: 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 December 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3733 for appropriate action on the amendment filed December 21, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/419,011	04/18/2003	3733	417	DIX 2035-005	3	20	4

CONFIRMATION NO. 8510

CORRECTED FILING RECEIPT

OC000000018315641

08698
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

Date Mailed: 03/17/2006

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

Applicant(s)

Robert A. Dixon, Powell, OH;
Donald J. Hackman, Columbus, OH;

Power of Attorney: The patent practitioners associated with Customer Number **08698**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/083,332 02/25/2002
and is a CIP of 10/034,815 12/27/2001 PAT 6,666,870
and is a CIP of 09/996,858 11/20/2001 PAT 6,656,181
and is a CIP of 09/977,663 10/15/2001 PAT 6,695,845

Foreign Applications

If Required, Foreign Filing License Granted: 06/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/419,011

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Vertebral implant for bone fixation or interbody use

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date: 09/25/08

Patent No. : 7184836 B1
Ser. No. : 10/419,018
Inventor(s) : MEADOWS, PAUL M.
Issued : 02/27/07
Title : **IMPLANTABLE DEVICES USING RECHARGEABLE ZERO-VOLT TECHNOLOGY LITHIUM-ION BATTERIES**
Docket No. : **10527-783002**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome

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

ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA CA 91355

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Robertson, Kenneth G.	:	
Application No. 10/419,032	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 200208793-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 13, 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 corrected formal 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.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 03 2003

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of
David S. Christie et al.
Application No. 10/419,038
Filed: April 18, 2003
Attorney Docket No. 5500-96400

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 31, 2003, to correct the filing date to April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 18, 2003. In support, on July 30, 2003, petitioner supplied a copy of Express Mail Label No. EV249056014US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is April 18, 2003.

In view of the above, the petition is granted and since no fee is due none will be charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to April 18, 2003** and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael E. Coleman, et al.	:	
Application No. 10/419,045	:	DECISION ON PETITION
Filed: September 25, 2003	:	TO WITHDRAW
Attorney Docket No. 026482-001210US	:	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 16, 2008.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 11, 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DLA Piper LLP (US)**
4365 Executive Drive
Suite 1100
San Diego, CA 92121-2133

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Foley Hoag, LLP
Patent Group,
World Trade Center West
155 Seaport Blvd
Boston, MA 02110

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of
Timothy WHITE
Application No. 10/419,049
Filed: April 18, 2003
Attorney Docket No. TWC-009.02 (18920-902)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no customer number provided.

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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: Timothy White
804 Johnson Street,
Apt. A
Emira, NY 14901

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Patrick A. Pribyl :
Application No. 10/419,052 :
Filed: April 17, 2003 :
Attorney Docket No. 11006-004-999 :

ON PETITION

This is a decision on the petition, filed March 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 January 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114.

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

---

[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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Application of	:
Patrick A. Pribyl	:
Application No. 10/419,052	: DECISION DISMISSING PETITION
Filed: April 17, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11006-004-999	:

This is a decision on the petition, filed July 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests withdrawal of this application from issue "in order to allow consideration of the Request for Continued Examination (RCE), Supplemental Information Disclosure Statement, and the reexecuted Declaration submitted concurrently herewith * * *."

In reviewing the Notice of Allowability mailed April 7, 2005, it is noted that the Examiner made a requirement for the submission of a substitute declaration or oath to be submitted within three months of the mailing date of the Notice. The Notice further stated that failure to submit the substitute declaration or oath within the time period set would result in the abandonment of the application. Therefore, a substitute oath or declaration was due on or before July 7, 2005 to avoid the abandonment of the application.

There is no indication in the record that a substitute oath or declaration was submitted on or before the due date of July 7, 2005. The record shows that the first indication of the submission of the required oath or declaration is July 12, 2005, which is after the date set in the Notice of April 7, 2005. Therefore, this application is deemed abandoned for failure to timely submit the oath or declaration required by the Notice of April 7, 2005.

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable."

This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 petition fee.

In a further review of the record, it is noted that petitioner requests, in a communication entitled "Response to Notice of Allowance and Submission of Revised Drawings," filed July 7, 2005, that the previously paid publication and issue fees be applied to the April 7, 2005 Notice. While such a request embodied in a paper filed for another purpose is permissible, it is advised that petitioner return the Fee(s) Transmittal form in order to avoid any delays or oversight in processing the issue fee. In the instant case, because the request was embodied in the paper filed on July 7, 2005, the Office overlooked that this was a request to reapply the previously paid fees. As requested in the July 7, 2005 communication, the Office will reapply the issue fee paid on January 20, 2005 to the Notice of April 7, 2005.

Should petitioner seek revival of this application, and if it is still desired to withdraw the application from issue, the petition to revive should also include a renewed petition to withdraw the application from issue pursuant to the provisions of 37 CFR 1.313(c)(2).

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of	:
Patrick A. Pribyl	:
Application No. 10/419,052	: DECISION GRANTING PETITIONS
Filed: April 17, 2003	: UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 11006-004-999	: 37 CFR 1.313(c)(2)

This is a decision on the petitions, filed August 25, 2005, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the renewed petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

As noted in the decision mailed July 21, 2005, this application became abandoned for failure to timely submit a substitute oath or declaration on or before July 7, 2005, as required by the Notice of Allowability mailed April 7, 2005, which set a three month nonextendable period for its submission. A substitute declaration was received on July 12, 2005, after the three month period set in the Notice of April 7, 2005. Accordingly, the date of abandonment of this application is July 8, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a substitute declaration, and (2) the petition fee of $750 have been received. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the

statement contained in the petition. Accordingly, the reply to the Notice of April 7, 2005 is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue to allow consideration of a Request for Continued Examination (RCE) and the Supplemental Information Disclosure Statement submitted on July 12, 2005.

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

Petitioner is advised that the issue fee paid 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 2821 for such further action as the nature of the case requires.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060719

DATE : July 19, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,001,908

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:

Joseph K McKane

SPE: JOSEPH K. MCKANE **Art Unit** 1626

UNITED STATES 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 06-04

Paper No. 4

WILMER CUTLER PICKERING HALE AND DORR, LLP
60 STATE STREET
BOSTON MA 02109

COPY MAILED

JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Richard Lennox Boyd	:	DECISION GRANTING
Application No. 10/419,068	:	PETITION
Filed: 18 April, 2003	:	
Atty Dckt No. NOR-	:	
016CIP/286336.142	:	

This is a decision on the petition filed on 3 October, 2003, requesting that the above-identified application, including 45 sheets of drawings, be accorded a filing date of 18 April, 2003.

The petition is **GRANTED**.

On 18 April, 2003, the application was filed.

On 4 August, 2003, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application had been deposited without drawings.

In response, on 3 October, 2003, the present petition was filed. A duplicate copy of the petition and petition fee were filed on 13 February, 2004. Duplicate copies of the petition were also filed on 21 April and 6 May, 2004, Petitioners argue that 45 sheets of drawings were filed with the other application papers on 18 April, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the petition. The postcard receipt shows an Office date stamp of 18 April, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 45 sheets of formal drawings.

Upon review of the record, no sheets of drawings deposited on 18 April, 2003, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 18 April, 2003, included 45 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including 45 sheets of drawings, was complete on filing and entitled to a filing date of 18 April, 2003.

The application will be processed and examined using the 45 sheets of drawings on 6 October, 2003. The duplicate copies of the petition and application papers filed on 13 February, 21 April, and 6 May, 2004, will not be used for processing or examination, but will be retained in the application file.

As petitioners have shown that the present petition was due to Office error, the petition fee of $130.00 will be credited to counsel's deposit account, No. 08-0219.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 18 April, 2003, using the application papers filed on that date and the 45 sheets of drawings filed with the present petition, and for an indication on the bib-data sheet that 45 sheets of drawings were present on filing.

Telephone inquires 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

JOE MCKINNEY MUNCY
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED
APR 29 2004
OFFICE OF PETITIONS

In re Application of :
Hong-Tien Yu et al :
Application No. 10/419,078 : NOTICE
Filed: April 21, 2003 :
Attorney Docket No. 4444-0112P

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 2875.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767

COPY MAILED
AUG 07 2003
OFFICE OF PETITIONS

In re Application of	:	
McGrath, et al.	:	DECISION GRANTING
Application No. 10/419,082	:	PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 5500-92300	:	

This is a decision on the petition under 37 CFR 1.10(c), filed July 31, 2003, requesting that the above-identified application be accorded a filing date of April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioners allege that the application was deposited in Express Mail service on April 18, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV249056014US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of April 18, 2003.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of April 18, 2003.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of April 18, 2003 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Kevin J. McGrath	: DECISION ON REQUEST FOR
Patent Number	: 7603550	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

COPY MAILED

AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Kevin J. McGrath	:	
Application No. 10/419,084	:	DECISION ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 5500-96300	:	
Title: METHOD OF CONTROLLING	:	
ACCESS TO MODEL SPECIFIC	:	
REGISTERS OF A MICROPROCESSOR	:	

This is a decision on the petition filed July 30, 2003, requesting that application number 10/416,084 be accorded a filing date of April 18, 2003.

On June 26, 2003, the Office of Initial Patent Examination mailed a Filing Receipt, stating that the application had been accorded a filing date of April 21, 2003.

In response, on July 30, 2002, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EV249056014US which is dated April 18, 2003, a copy of the receipt for this Express Mail Label, and a copy of the certificate of mailing. Both the receipt and the certificate of mailing are dated April 18, 2003.

Applicants request that application be accorded a filing date of April 18, 2003.

A check of the United States Postal Service's (USPS) website (http://www.usps.com/shipping/trackandconfirm.htm) shows that the package was accepted by the USPS on April 18, 2003. A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. Copies of both search results are enclosed.

Upon review of the record, the application bears a label containing the date April 21, 2003. However, the evidence is convincing that the application papers were deposited on April 18, 2003 with the USPS, and the Office of Initial Patent Examination (OIPE) subsequently assigned an incorrect date to the application by mistake. Therefore, the application was entitled to a filing date of April 18, 2003.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 18, 2003, as well as the mailing of a corrected filing receipt.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Copy of USPS Express Mail Printout (Paper No. 3)
Copy of USPS Express Mail Finder Database printout (Paper no. 4)

MEYERTONS
HOOD
KIVLIN
KOWERT
& GOETZEL
A PROFESSIONAL CORPORATION
PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

700 LAVACA, SUITE 800
AUSTIN, TEXAS 78701
TELEPHONE (512) 853-8800
FACSIMILE (512) 853-8801

3

FAX

To: U.S. Patent Office	From: Stephen J. Curran
Attn: Examiner Paul Shanoski	Pages: 1
Fax: 703/308-6916	Date: August 11, 2003
Re: 5500-96300	Phone: (512) 853-8800

Comments:

Pursuant to your request, attached please find a copy of a Filing Receipt indicating c rrection of the filing date with regard to U.S. patent application serial no. 10/419,084.

If you have any questions or comments, please do not hesitate to contact me.

FAX RECEIVED
AUG 1 1 2003
PETITIONS OFFICE

THIS FACSIMILE TRANSMITTAL AND THE DOCUMENTS ACCOMPANYING THIS FACSIMILE TRANSMITTAL CONTAIN CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT YOU ARE NOTIFIED THAT THIS COMMUNICATION MAY BE SUBJECT TO THE ATTORNEY-CLIENT OR WORK-PRODUCT PRIVILEGE AND THAT THE DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE (COLLECT) TO ARRANGE FOR RETURN OF THE DOCUMENTS. RECEIPT BY ANYONE OTHER THAN THE INTENDED RECIPIENT IS NOT A WAIVER OF ANY ATTORNEY-CLIENT OR WORK-PRODUCT PRIVILEGE.

UNITED STATES POSTAL SERVICE

4

Track & Confirm

Shipment Details

You entered EV24 9056 014U S

Your item was delivered at 6:30 am on April 21, 2003 in WASHINGTON, DC 20231 to PATENTS 20231. The item was signed for by M BOSTON.

Here is what happened earlier:

- NOTICE LEFT, April 20, 2003, 10:00 am, WASHINGTON, DC 20231
- ARRIVAL AT UNIT, April 20, 2003, 8:20 am, WASHINGTON, DC 20599
- ENROUTE, April 18, 2003, 8:50 pm, AUSTIN, TX 78799
- ACCEPTANCE, April 18, 2003, 5:48 pm, AUSTIN, TX 78701

Notification Options

- Track & Confirm by email What is this? Go>
- Request Proof of Delivery What is this? Go>

Track & Confirm

Enter label number:

Track & Confirm FAQs

POSTAL INSPECTORS
Preserving the Trust

site map contact us government services

Copyright © 1999-2002 USPS. All Rights Reserved. Terms of Use Privacy Policy

5

USPTO's USPS Express Mail Information Database

EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Express Mail Number: **EV249056014US**

Origin ZIP: 78701

Weight: 07 lbs. 11 ozs.

Postage Paid: $034.75

Date and Time* Package was accepted by USPS:	04/18/2003	05:48 pm
Attempted Delivery Date and Time:	04/20/2003	10:00 am
Actual Delivery Date and Time:	04/21/2003	06:30 am

***Also referred to as "Date In"**

Print Record | Preview Report | Print Report | Back

Friday, August 15, 2003 01:53 PM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED
AUG 2 0 2003
OFFICE OF PETITIONS

In re Application of :
Christie, et al. :
Application No: 10/419,085 :
Filing Date: April 18, 2003 :
Attorney Docket No. 5500-96100 :

This is a decision on the petition under 37 CFR 1.10(c), filed on July 31, 2003, requesting that the above-identified application be accorded a filing date of April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

The petition is **granted**.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on April 18, 2003. In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no. EV249056014US showing a "date-in" of April 18, 2003. The Express Mail label number was also filed on the application transmittal that accompanied the original application papers.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the United Stated Postal Service on April 18, 2003. Accordingly, the application is accepted as filed on April 18, 2003.

The application is being forwarded to Office of Initial Patent Examination for further processing, including the mailing of a corrected filing receipt with a filing date of April 18, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 3

MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
PO BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

AUG 0 7 2003

OFFICE OF PETITIONS

In re Application of
Christie et al.
Application No. 10/419,086
Filed: April 18, 2003
Attorney Docket No. 5500-96200

ON PETITION

This decision concerns the July 31, 2003 petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of April 18, 2003 rather than the presently accorded filing date of April 21, 2003, on the basis that the application was deposited on April 18, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV249056014US" and containing a USPS "date-in" as well as a date-stamp of April 18, 2003. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. In addition, the Office has verified through the official USPS website, www.usps.gov (Track & Confirm), that the package mailed under this label had been accepted by the USPS on April 18, 2003 at 5:48pm. The petition is thus granted.

No petition fee is owed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to April 18, 2003, and for mailing a corrected filing receipt reflecting that filing date. Upon completion of pre-examination, the application file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN TX 78767-0398

COPY MAILED

DEC 22 2005

OFFICE OF PETITIONS

In re Application of	:	
David S. Christie et al	:	
Application No. 10/419,086	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 5500-96200	:	

This is a decision on the petition, filed December 13, 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 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2188 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

COPY MAILED

AUG 1 4 2003

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of
Geoffrey S. Strongin et al.
Application No. 10/419,090
Filed: April 18, 2003
Attorney Docket No. 5500-96600

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 30, 2003, to correct the filing date to April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 18, 2003. In support, on July 30, 2003, petitioner supplied a copy of Express Mail Label No. EV249056014US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is April 18, 2003.

In view of the above, the petition is granted and since no fee is due none will be charged.

Please be reminded that a Notice to File Missing Parts was mailed on June 18, 2003. To avoid abandonment, a reply is required no later than August 18, 2003 although extensions of time may be obtained.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to April 18, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

COPY MAILED

AUG 1 4 2003

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of
Geoffrey S. Strongin et al.
Application No. 10/419,090
Filed: April 18, 2003
Attorney Docket No. 5500-96600

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 30, 2003, to correct the filing date to April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 18, 2003. In support, on July 30, 2003, petitioner supplied a copy of Express Mail Label No. EV249056014US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is April 18, 2003.

In view of the above, the petition is granted and since no fee is due none will be charged.

Please be reminded that a Notice to File Missing Parts was mailed on June 18, 2003. To avoid abandonment, a reply is required no later than August 18, 2003 although extensions of time may be obtained.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to April 18, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 08-03

Paper No: 4

MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

COPY MAILED

AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Christie, et al.	:	
Application No. 10/419,091	:	ON PETITION
Filed: 18 April, 2003	:	
Attorney Docket No.: 5500-96800	:	

This is a response to the paper filed on 30 July, 2003, styled as a "Petition Under 37 C.F.R. §1.10[1] for Correct Filing Date," seeking to obtain an 18 April, 2003, filing date, rather than the

---

[1]The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the 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.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the

21 April, 2003, filing date presently accorded

The petition is **GRANTED**, and no fee has been charged.

BACKGROUND

The record indicates that:

- Petitioner Stephen J. Curran (Reg. No. 50,664) (Petitioner) alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS) Express Mail No. EV249056014US (although the number is not stated in the petition, it is evident on accompanying documentation) on 18 April, 2003;

- the Office thus far has accorded a filing date of 21 April, 2003;

- the instant petition is supported by:

  --the statement of Petitioner included in the petition;

  --a copy of what Petitioner represents to be a copy of the USPS Express Mail No. EV249056014US, bearing a "date in" of "4/18/03" and date-stamped as received "Apr 18 2003 Downytown Station Austin TX";

---

correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

--a copy of the two- (2-) page application transmittal for the instant application bearing USPS Express Mail No. EV249056014US, (top, right, first page), the title of the claimed invention (top, left, first page) and Petitioner's docket or case number above the invention title.

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/419,091, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 18 April, 2003; and
- issue a filing receipt specifying the filing date as that of 18 April, 2003.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

APR 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of: Yagisawa, et al.
Application No. 10/419,096
Filed: April 21, 2003
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 08 March 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 08 March 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. For example, the discussion states, among many other things, that the claims differ from Hirata in that "the present invention provides for the use in the storage system a plurality of storages having different reliabilities measured in lifetimes . . . ." However, only one of the four independent claims requires that different reliabilities be measured in lifetimes. Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

JUL 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: I. YAGISAWA, et al.
Application No. 10/419,096
Filed: April 21, 2003
For: STORAGE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition(s) filed on March 08, 2005 and Renewed Request for Reconsideration of Petition to Make Special filed on June 20, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

RP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

11/28/07

MAILED

DEC 03 2007

Technology Center 2100

Robert E. Bushnell
SUITE 300
1522 K STREET, N.W.
WASHINGTON DC 20005-1202

In re Application of:
Hyun-Suk CHOI, et al.
Application No. 10/419,100
Filed: January 08, 2007
For: METHOD FOR DOMAIN NAME SYSTEM SPOOFING IN LOCAL NETWORK SYSTEM

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed Jan 08, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to acknowledge the claim for foreign priority under 35 USC 119(a)-(d).

A review of file history indicates that an Oath/Declaration of the instant application claiming the benefit of Korean application No. 2002-22058 along with a certified copy of the foreign priority of the Korean application were filed with the office on April 21, 2003. The Korean application No. 2002-22058 has a filing date of April 22, 2002. The applicant had satisfied the requirements of 35 USC 119(a)-(d), thus the claim to foreign priority benefit of the Korean application No. 2002-22058 is hereby **ACKNOWLEDGED**.

The examiner has not formally acknowledged the claim for benefit of the foreign application in the office actions mailed 12/21/06 or 9/10/07. The Office will direct the examiner **to formally acknowledge** the benefit for the foreign priority claim of the Korean application No. 2002-22058 **in the next communication**.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4147.

Kim Huynh
Special Program Examiner
Technology 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

OCT 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Pradeep K. Govil et al	:
Application No. 10/419,101	:
Filed: April 21, 2003	:
Attorney Docket No. 1857.1360001	:

This is a decision on the petition, filed October 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

COPY MAILED

AUG 1 9 2003

OFFICE OF PETITIONS

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

In re Application of
Kevin J. McGrath et al.
Application No. 10/419,120
Filed: April 18, 2003
Attorney Docket No. 5500-97000

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 30, 2003, to correct the filing date to April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 18, 2003. In support, on July 30, 2003, petitioner supplied a copy of Express Mail Label No. EV249056014US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is April 18, 2003.

In view of the above, the petition is granted and since no fee is due none will be charged.

Please be reminded that a Notice to File Missing Parts was mailed on June 18, 2003. To avoid abandonment, a reply is required no later than August 18, 2003 although extensions of time may be obtained.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to April 18, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 4

Meyertons, Hood, Kivlin, Kowert & Goetzel, PC
PO Box 398
Austin, TX 78767-0398

COPY MAILED

AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of
McGrath et al.
Application No. 10/419,121
Filed: April 18, 2003
Attorney Docket No. 5500-96700

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed July 31, 2003, requesting that the above-identified application be accorded a filing date of April 18, 2003, rather than the presently accorded filing date of April 21, 2003.

Petitioner alleges that the application was deposited in Express Mail service on April 18, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV249056014US . The "date-in" indicated on the Express Mail label is April 18, 2003. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of April 18, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to April 18, 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

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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Kevin J. McGrath	: DECISION ON REQUEST FOR
Patent Number	: 7603551	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1039** 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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

In re Application of	:	
Christie et al.	:	
Application No. 10/419,122	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 5500-96900	:	

This is a decision on the petition filed July 30, 2003, to accord the above-identified application a filing date of April 18, 2003, instead of April 21, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of April 18, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of April 18, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Christie et al.	:	
Application No. 10/419,122	:	
Filed: April 18, 2003	:	
Attorney Docket No. 5500-96900	:	

This is a decision on the petition filed July 30, 2003, to accord the above-identified application a filing date of April 18, 2003, instead of April 21, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of April 18, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of April 18, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

8-17-06

In re Patent No. CHANG ET AL.	:	
Issue Date: January 27, 2004	:	**DECISION GRANTING**
Appl No.: 10/419,255	:	**PETITION**
Filed: April 21, 2003	:	*37 CFR 1.324*
For: METHOD OF FABRICATING COLOR FILTER SUBSTRATE FOR LIQUID CRYSTAL DISPLAY DEVICE	:	

This is a decision on the petition filed June 20, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Mark F. Huff
Supervisory Patent Examiner
Art Unit 1756
Technology Center 1700

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

COPY MAILED

AUG 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Driscoll et al.	:	
Application No. 10/419,283	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. BEH-002-3DID	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must 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 2622 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,486,324	:	DECISION ON REQUEST
Driscoll et al.	:	FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Application No. 10/419,283	:	PATENT TERM ADJUSTMENT
Filed: April 17, 2003	:	and
Atty Docket No. 088245-6300	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 27, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighteen (1,118) days.

In addition to requesting correction of the B delay, patentee discloses that a reduction of 574 days should have been entered for applicant delay in association with the abandonment of this application.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred one (1,101) days.

The Office agrees that the B delay is 669 days for a total of 1,692 days of Office delay. Further, Patentee correctly discloses that a period of reduction for applicant delay should

have been entered. However, that period is 591 days, not 574 days.

Pursuant to 37 CFR 1.704(c)

> (3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;
>
> (4) Failure to file a petition to withdraw the holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date two months from the mailing date of a notice of abandonment and ending on the date a petition to withdraw the holding of abandonment or to revive the application was filed;

In this instance, a notice of abandonment was mailed on April 4, 2007, and a petition to revive was not filed until July 15, 2008. Further, the application became abandoned on December 20, 2006. The decision granting the petition was mailed on August 1, 2008.

Thus, the period of reduction pursuant to (c)(3) begins on December 20, 2006 and ends on the earlier date of August 1, 2008. Whereas, the period of reduction pursuant to (c)(4) begins on June 5, 2007 and ends on July 15, 2008. The period of reduction pursuant to (c)(4) completely overlaps with the period of reduction pursuant to (c)(3). As such a single period of reduction for applicant delay of 591 for the period pursuant to (c)(3), beginning on December 20, 2006, the date of abandonment, and ending on August 1, 2008, the date of the decision granting the petition, is being entered.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred one **(1101)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,486,324 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Driscoll, Jr. 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 1023 days

Delete the phrase "by 1023 days" and insert – by 1101 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OSHA - LIANG L.L.P. (INTUIT)
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of
Campise, et al.
Application No. 10/419,289
Filed: April 18, 2003
Attorney Docket No. 37202/191001; 082354

DECISION ON PETITION

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.

The application became abandoned February 19, 2007 for failure to timely submit a proper reply to the restriction requirement mailed January 18, 2007. Notice of Abandonment was mailed October 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (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 Technology Center AU 2141 for appropriate action by the Examiner in the normal course of business on the reply received herewith.

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

COPY MAILED

AUG 1 0 2007

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:	
Clifford J. Woolf et al	:	
Application No. 10/419,296	:	ON PETITION
Filed: April 17, 2003	:	
Attorney Docket No. 00786/419002	:	

This is a decision on the petition, filed August 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 21, 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 * will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 4

William F. Bahret
Bahret & Associates
Suite 512
320 North Meridian Street
Indianapolis IN 46204

COPY MAILED

JUL 22 2003

OFFICE OF PETITIONS

In re Application of
Laflen et al.
Application No. 10/419,298
Filed: March 27, 2003
Attorney Docket No. 13054-206-US

DECISION GRANTING PETITION

This is a decision on the petition filed June 26, 2003, requesting that the above-identified application be accorded a filing date of March 27, 2003.

On March 27, 2003, applicants deposited the above-identified application. On June 13, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without a specification and that the filing date would be the date of receipt of those omitted items.

In response, on June 26, 2003, applicants filed the present petition, an authorization to charge the Deposit Account for the petition fee, a copy of the application papers, and a copy of applicants' postcard receipt. Applicants' postcard receipt acknowledges receipt of the following: 1. Application (22 pgs); 2. Drawing Sheets (13 pgs); Utility Patent Application Transmittal Form; 4. Declaration & POA; 5. Nonpublication Request Form; 6. Assignment; 7. Recordation Form Cover Sheet; 8. Fee Transmittal Form SB/17; and, 9. Check for $415.00 on March 31, 2003. Additionally, applicants included a copy of their Express Mail Label, No. EU891376484US, indicating a date-in of March 27, 2003. The same Express Mail Label No. was placed on the application papers upon filing.

Upon review of the record, the specification, deposited on March 27, 2003, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 27, 2003, included the

specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the specification, was complete on filing and will be granted a filing date of March 27, 2003.

Accordingly, the petition is granted.

The Notice of Incomplete of June 13, 2003, was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-2176.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 27, 2003, using the complete application papers submitted on petition, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

F.W . POLLOCK
9936 OAKRIDGE Rd. S.W.
CALGARY AB T2V 4A5
CANADA

COPY MAILED

FEB 09 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Frederick William Pollock :
Application No. 10/419,300 :
Filed: April 22, 2003 :
Title of Invention: PAIN RELIEF DEVICE :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 25, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the non-Final office action mailed May 26, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned August 29, 2005. Accordingly, a Notice of Abandonment was mailed December 2, 2005.

This matter is being referred to Technology Center 3762 for appropriate action on the amendment filed October 25, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Yoshio Nozaki
89, Saiwai-Cho
Inazawa-City
Aichi-Ken,
Japan

MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

In re Application of
Yoshio Nozaki
Application No. 10/419,302
Filed: April 22, 2003
For: AIRCRAFT WHICH EMPLOYS HYDROGEN AS FUEL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's letter filed December 29, 2004, which is taken as a petition to withdraw the holding of abandonment, filed under 35 U.S.C. 1.181.

The petition is **DENIED**.

A review of the file record reveals that a non-final Office action was mailed on May 21, 2004, setting a three month shortened statutory period for response. A response from applicant was due by August 21, 2004, with the option of purchasing extensions of time in one-month increments, with a maximum of three months, up to and including the six-month statutory response due date of November 21, 2004. Since November 21, 2004 fell on a Sunday, applicant had until midnight of Monday, November 22, 2004 to file a response. Applicant filed a response on Friday, November 26, 2004. Applicant's response included a request and fee for a four-month extension of time. Since applicant's response was filed four days after the expiration of the six-month statutory period for response had expired, the application became abandoned at midnight on November 22, 2004, and a Notice to that effect was mailed on December 13, 2004.

On December 29, 2004 applicant filed the present petition. In his petition applicant explains that he filed a response and a request a four-month extension of time.

Applicant's petition is insufficient to withdraw the holding of abandonment. In this regard, while applicant attempted to extend the period for response an additional four

months, applicant may not extend the period beyond six-months from the mailing date of the Office action. The time for prosecuting an application is set by statute. Note,

> **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.

For the reasons stated above, there is no error on the part of the Office, and the abandonment of this application will not be withdrawn.

Any requests by applicant for a refund of previously submitted fees must be made in a separate letter under 37 CFR 1.26, and submitted to the Head Supervisory Legal Instruments Examiner for Art Unit 3671.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

> A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $500. The fee for a petition under the unintentional standard is $1,500. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/rwg: 2/12/05

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

COPY MAILED

MAR 17 2008

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD CT 06905

In re Application of	:	
Walker, et al.	:	
Application No. 10/419,306	:	DECISION
Filed: 18 April, 2003	:	
Attorney Docket No. 02-019	:	

This is a decision on the petition filed on 28 June, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to intentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- prior Counsel failed to reply timely and properly to the non-final Office action mailed on 21 September, 2006, with reply due absent an extension of time on or before 21 December, 2006;
- the application went abandoned by operation of law after midnight on 21 December, 2006;
- the Office mailed the Notice of Abandonment on 15 May, 2007;
- on 28 June, 2007, Petitioner filed the instant petition with fee and, *inter alia*, a reply in the form of an amendment and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of

---

[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).

See specifically, the regulations at 37 C.F.R. §10.18.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

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]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center AU 3714 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 Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the

---

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. §1.2 provide:
§1.2 Business to be transacted in writing.

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

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

COPY MAILED

SEP 08 2005

OFFICE OF PETITIONS

In re Application of :
Grim et al. :
Application No. 10/419,307 : ON PETITION
Filed: April 18, 2003 :
Attorney Docket Number: 480032-296

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of September 9, 2004. 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 December 10, 2004. A Notice of Abandonment was mailed on March 22, 2005.

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 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael V. Chobotov	:	
Application No. 10/419,312	:	DECISION GRANTING PETITION
Filed: April 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 021630-000420US	:	

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 July 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3738 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due 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).*

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/419,314
Filing Date	April 17, 2003
First Named Inventor	Lawrence Turlington
Art Unit	9534
Examiner Name	Schultzbrandt, Kofi A.
Attorney Docket Number	142419.00001-P1209US00

APPROVED JUN 2 2005

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
CENTRAL FAX CENTER
MAR 2 4 2005

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 25207

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 applicant has filed responses and communicated directly with the Patent Office evidencing that he does not wish to oblige by this firm's undertaking to allow the undersigned attorney to represent him effectively. Applicant has also indicated that he is unable to pay the undersigned's past due balance and indicated that he is unable to pay for any future work. The undersigned attorney advised the applicant to seek other counsel. Withdrawal by counsel will not materially prejudice applicant's ability to seek other counsel or to represent himself before the Patent Office.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] Customer Number:

OR

[x] Firm or Individual Name	Larry T. Turlington				
Address	1826 Georgia Highway				
Address					
City	Franklin	State	NC	Zip	28743
Country	United States				
Telephone	828-369-6183			Fax	828-349-4805
Name	Jason A. Bernstein				
Signature	Jason A. Bernstein	Registration No.	31,236		
Date	3-24-05	Telephone No.	404-572-6900		

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 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, 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.

BEST AVAILABLE 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

November 23, 2004

Shelly Denise White
1264 Tioga Drive
Irving, TX 75063

In re Application of
Shelly Denise White
Application No. 10/419,317
Filed: April 22, 2003
For: ELECTRONIC SIGN IN SHEET FOR PATIENTS USING INTEGRATION SOFTWARE CRYPTOGRAPHICALLY DESIGNED TO ELIMINATE THE PAPER SIGN IN SHEET

This is a decision on the petition received by fax on September 24, 2004 to withdraw the holding of abandonment in the above application filed April 22, 2003.

The Petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in a timely manner to the Notice to File Corrected Application Papers mailed June 12, 2003. Which set a shortened statutory period for reply of two (2) months.

On September 24, 2004, the office received a communication from the applicant of record. Enclosed was an acknowledgement that the applicant called the office and received confusing information concerning the application?

The applicant is given two months from the date of this petition to complete the above application.

There is a fee requirement of $220 due for addition claims.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703-308-3640). The office regrets any inconvenience this might have caused the applicant.

Doshie Day

Doshie E. Day
Office of Initial Patent Examination
Program Management Assistant

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrea L. Pabst
Pabst Patent Group LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

COPY MAILED

AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Andreas Lendlein et al.	:	
Application No. 10/419,323	:	DECISION ON PETITION
Filed: April 18, 2003	:	TO WITHDRAW
Attorney Docket No. 26538-0011	:	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 11, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Pabst Patent Group LLP has been revoked by the assignee of the patent application on July 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Hogan & Hartson LLP**
IP Group Columbia Square
555 Thirteenth Street, N.W.
Washington, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 8 2005

In re Application of John D. Metzig et al. Serial No. 10/419,329 Filed: April 21, 2003 For: LUGGAGE SECURITY SLEEVE SYSTEM	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 21, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Litman Law Offices, Ltd.
P.O. Box 15035, Crystal City Station
Arlington, VA 22215

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Philip Lamarre
40 Amherst Avenue
Waltham MA 02451

COPY MAILED

JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Lamarre et al. :
Application No. 10/419,331 :
Filed: April 21, 2003 :
Title: Efficiency Lateral Micro Fuel Cell :

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.181, filed April 21, 2006, to withdraw the holding of abandonment.

On June 13, 2005, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. The application became abandoned on September 14, 2005, for failure to submit a timely response to the nonfinal Office action.

In the present petition, petitioner requested that the Office withdraw the holding of abandonment due to nonreceipt of the nonfinal Office action. Specifically, petitioner asked that the Office re-mail the nonfinal Office action and restart the period for response.

In support of petitioner's assertion of nonreceipt of the nonfinal Office action, petitioner provided an explanation of the manner in which petitioner received mail from the USPTO, maintained correspondence regarding patent matters, and treated mail received for such matters. In particular, petitioner demonstrated that he had an adequate system in place for tracking response due dates and established that the nonfinal Office action was not entered into that system. In view thereof, the holding of abandonment is hereby withdrawn.

Petitioner submitted a change of correspondence address to Customer Number 57499 signed by joint inventor Philip A. Lamarre only. Pursuant to 37 CFR 1.33(2)(b)(4), all of the applicants must sign a request to change the correspondence address, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. Therefore, the Office will NOT change the correspondence address until the requirements of 37 CFR 1.33 are met.

A new nonfinal Office action will be mailed to Philip Lamarre, 40 Amherst Avenue, Waltham MA 02451, and the period for reply will be restarted.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 1745 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office action. The three (3) month shortened statutory time period for responding to the nonfinal Office action will be set to run from the mailing date of the new nonfinal Office action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard A. Darrow
7159 N. Summit View Drive
Prescott Valley AZ 86314

COPY MAILED
FEB 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Richard A. Darrow :
Application No. 10/419,334 : DECISION ON PETITION
Filed: April 21, 2003 :
Title: Flushable Mitt For Pick Up and :
Disposal of Dog Waste :

This is a decision on the petition filed January 9, 2006, to withdraw the holding of abandonment.

On June 9, 2005, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. On July 15, 2005, petitioner filed a response to the final Office action. On December 19, 2005, the Office mailed a Notice of Abandonment to petitioner, indicating that this application was abandoned because petitioner **failed to file a proper reply** to the Office action of June 9, 2005. Additionally, the Notice indicated that the USPTO received the proposed reply of July 15, 2005, but that it did not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. On January 9, 2006, petitioner filed the present petition to withdraw the holding of abandonment in the above-identified application.

In the petition, petitioner stated that after a discussion with Mr. Calvert of Technology Center 3700, he was informed that due to clerical error his response was incorrectly entered into the IFW database as a Letter instead of a Response to Office Action Summary. Petitioner further asserted that due to this error the examiner did not receive his response until after the allotted time to reply, and therefore, issued a Notice of Abandonment. Petitioner requested that the Office withdraw the holding of abandonment so that the examiner could review his response of July 15, 2005, as if it was received within the allowed time period.

DISCUSSION

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See

MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

Upon reviewing petitioner's response to the final Office action, the Examiner issued an Advisory Action Before the Filing of an Appeal, which is enclosed. As stated in the Advisory Action, petitioner's reply filed on July 15, 2005, failed to place this application in condition for allowance.

A response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment/request for reconsideration after a final rejection will not operate to relieve the application from its condition. Further, the entry of an amendment after a final rejection is not a matter of right.

In the present case, it is regrettable that the Office did not mail an Advisory Action until the date of this decision; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment/request for reconsideration is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment/request for reconsideration in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

CONCLUSION

The Office correctly mailed the Notice of Abandonment. This application became abandoned due to petitioner's failure to submit a proper response. Under the circumstances of this case, the application did not become abandoned due to the entry of the reply into the database as a "Letter," a delay in mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**. The application will remain in its abandoned state until petitioner files a petition to revive the application (accompanied by the appropriate petition fee).

The Office strongly encourages petitioner to file a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

> (1) The required reply to the outstanding final Office action, such as a notice of appeal with a $250.00 fee, a Request for Continued Examination with a submission and a $395.00 fee, or a continuing application.
>
> (2) The petition fee as set forth in 1.17(m) (**an additional fee of $750.00 for a small entity**);

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

(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.

A copy of the appropriate form (PTO/SB/64) accompanies this decision for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211. If petitioner desires assistance in completing the form or requires more information regarding an appropriate response to the final Office action, petitioner may contact the Inventors Assistance Center at 800-786-9199.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Advisory Action, Form PTO/SB/64 and the Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN ROE
LAW OFFICES OF KEVIN ROE
155 E. CAMPBELL AVENUE
SUITE 203
CAMPBELL, CA 95008

COPY MAILED
DEC 10 2008

In re Application of	:	
James Bryant Money	:	
Application No. 10/419,336	:	DECISION ON PETITION
Filed: April 21, 2003	:	TO WITHDRAW
Attorney Docket No. JMB-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 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 Kevin Roe on behalf of all attorneys of himself. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there are no attorneys of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES BRYANT MONEY
1360 SANTA INEZ DRIVE
SAN JOSE, CA 95125

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
10/419,336	04/21/2003	James Bryant Money	

CONFIRMATION NO. 2462

POWER OF ATTORNEY NOTICE

KEVIN ROE
LAW OFFICES OF KEVIN ROE
155 E. CAMPBELL AVENUE
SUITE 203
CAMPBELL, CA 95008

OC000000033443406

Date Mailed: 12/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Eric I. Deininger :
Application No. 10/419,361 : DECISION GRANTING PETITION
Filed: April 21, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7357.2-P :

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 18, 2004. A Notice of Abandonment was mailed on November 1, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 17, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 3652 for appropriate action on the reply received concurrently with the instant petition to revive.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,910,664	2005-06-28	10/419,363	2003-04-18	25.001.NP

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 R. McKinney/	Date (YYYY-MM-DD)	2009-11-16
Name	David R. McKinney	Registration Number	42868

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. 6910664
Issue Date: June 28,2005
Application No. 10419363
Filed: April 18,2003
Attorney Docket No. 25.001.NP

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 16,2009 ,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 16,2009 . 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

COPY MAILED

OCT 28 2003

OFFICE OF PETITIONS

Duane Morris LLP
One Liberty Place
Philadelphia PA 19103-7396

In re Application of
Anderson et al.
Application No. 10/419,387
Filed: April 21, 2003
Attorney Docket No. D5203-00011

: DECISION ON PETITION

This is a decision on the petition filed July 28, 2003, requesting that the above-identified application be accorded a filing date of April 21, 2003.

On April 21, 2003, applicants filed the above-identified application. However, on June 25, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring an executed oath or declaration and drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on April 21, 2003, describes drawings containing Figures 1-7; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawings on filing.

In the present petition, applicants state that the present application is a continuation of parent application No. 09/541,960, now U.S. Patent No. 6,550,474. Applicants further assert that no new matter is found in the present application because the drawings are duplicates of those in the parent application.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The mere reference to another application is not an incorporation of anything therein into the application containing the reference. See In re Seversky, 177 USPQ 144, 146 (C.C.P.A. 1973) and Dart Industries, Inc. v. Banner, 207 USPQ 273, 276 (D.C. Cir. 1980). See also, Advance Display Systems Inc. v. Kent State University, 54 USPQ2d 1673 (Fed. Cir. 2000).

It is noted that the application transmittal letter deposited on April 21, 2003, includes a box used to incorporate the entire disclosure of a prior application into the disclosure of the application being filed. Unfortunately, applicants failed to check that box on the transmittal letter.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed June 25, 2003, was sent in error and is hereby withdrawn. The application will be accorded a filing date of April 21, 2003. Accordingly, the petition is granted. No petition fee is necessary and will be refunded to Deposit Account No. 04-1679.

The application will be granted a filing date of April 21, 2003, with "0" sheets of drawings.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 29, 2007

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No./10/419399 patent no.7238671

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: _____

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

1654

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

DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON WI 53717-1914

COPY MAILED

OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of
Raymond Plasky
Application No. 10/419,403
Filed: April 21, 2003
Att'y Docket No. 41429.000

: DECISION GRANTING PETITION

This is a decision on the petition filed August 9, 2004, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application mailed July 15, 2004, requesting that the above identified application be accorded a filing date of April 21, 2003.

On April 21, 2003, the application was filed.

On July 15, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on August 9, 2004 the present petition, and 3 sheets of drawings were filed. Petitioners argue that 3 sheets of drawings were filed with the other application papers on April 21, 2003. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of April 21, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 3 sheets of drawings, was supplied with the present petition. Petitioner has also supplied a copy of 3 sheets of drawings. Petitioner requests that the application, including 3 sheets of drawings, be accorded a filing date of April 21, 2003.

Upon review of the record, no sheets of drawings deposited on April 21, 2003, have been located among the application papers. However, the evidence is convincing that the application papers deposited on April 21, 2003, included 3 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 3 sheets of drawings, was complete on filing and entitled to a filing date of April 21, 2003.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed July 15, 2004, is withdrawn. Therefore, no petition fee is due and none has been charged.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of April 21, 2003, using the application papers filed on April 21, 2003 and the 3 sheets of drawings supplied on August 9, 2004.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

David M. Ostfeld
Chamberlain, Hrdlicka, White, Williams & Martin
Suite 1400
1200 Smith Street
Houston TX 77002-4310

COPY MAILED

DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Arnold Sprecher :
Application No. 10/419,447 : DECISION DISMISSING PETITION
Filed: April 21, 2003 :
Attorney Docket No. 910326-100 :

This is a decision on the "PETITION TO ACCORD FILING DATE" filed November 4, 2003. This petition is properly treated under 37 C.F.R. § 1.53(e)(2).

The petition is **DISMISSED**.

Application papers in the above-identified application were filed on April 21, 2003. However, on September 4, 2003, the Office of Initial Patent Examination (OIPE) mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was thereby notified that the application had been accorded a filing date; however, figure 6 described in the specification appeared to have been omitted from the application. (The Notice mailed September 4, 2003, also served to withdraw a previous "Notice to File Corrected Application Papers" mailed June 17, 2003 as having been sent in error).

On November 4, 2003, applicant timely responded with the instant petition, including a copy of figure 6, a supplemental declaration and payment of the petition fee. Petitioner acknowledges that figure 6 may have been omitted from the original application filing. Yet, petitioner seems to argue that the application should be accorded a filing date of April 21, 2003 with figure 6 as part of the original application disclosure, as the description of Figure 6 (as enclosed on petition) is as it is used to describe the invention is part of the application. (A review of the application file further confirms that figure 6 was not among the drawings submitted on original filing of this application).

A figure not present in the application on the filing date cannot be considered a part of the original application papers.

The option of retaining the original filing date and entering the omitted item is not available on petition in response to the "Notice of Omitted Items." The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or

(2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). The third option does not allow for retaining the original filing date and entering the omitted item. Rather, the third option is constructive acceptance of the application as deposited in the USPTO, without the omitted item.

In this case, petitioner does not assert that the missing drawing figure was deposited on April 21, 2003, or request a November 4, 2003 filing date (the date the drawing figure was supplied). Instead, applicant seeks, in effect, to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

A preliminary amendment requesting entry of figure 6 should be filed before the first Office action on the merits.

In view thereof, the petition is inappropriate and is subject to dismissal.

The application is being returned to the Office of Initial Patent Examination for:

- processing with a filing date of April 21, 2003; and
- indication in Office records that 3 sheets of drawings were present on filing (the drawing sheet containing Figure 6 was not present).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
Attn: PTO Customer No. 31717
11TH FLOOR, SEVEN PENN CENTER
PHILADELPHIA, PA 19103-2212

Mail Date: 04/20/2010

Applicant	: Kevin J. Williams	: DECISION ON REQUEST FOR
Patent Number	: 7655411	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,462	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1569** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
Attn: PTO Customer No. 31717
11TH FLOOR, SEVEN PENN CENTER
PHILADELPHIA, PA 19103-2212

Mail Date: 05/17/2010

Applicant : Kevin J. Williams
Patent Number : 7655411
Issue Date : 02/02/2010
Application No : 10/419,462
Filed : 04/21/2003

: 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 **1642** 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
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

COPY MAILED

NOV 2 5 2008

OFFICE OF PETITIONS

In re Application of
James L. KROENING
Application No. 10/419,475
Filed: April 21, 2003
Attorney Docket No. **P1921US00**

DECISION ON PETITION

This is a decision on the petition, filed April 24, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed January 16, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 31, 2007.

Petitioner asserts that the Office action dated January 16, 2007 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of January 16, 2007. In this regard, it is noted that the evidence filed concurrently with the instant petition includes a copy of the "Notice of Customer number record change" mailed by the Office on October 8, 2003, acknowledging the correspondence address change. However, Office records were not updated to reflect this change of address, prior to the mailing of the Office action of January 16, 2007. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed July 31, 2007 is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to the Tredelle Jackson at (571) 272-2783.

This application is being referred to the Technology Center technical support staff of Art Unit 2154 for remailing the Office action of January 16, 2007 and resetting the period for reply.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Trash not scan

RECEIVED
CENTRAL FAX CENTER
APR 24 2008

Attorney's Docket No. P1921US00 (30040)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. 10/419,475
First Named Applicant: JAMES KROENING
Filed: 4/21/2003
For: SYSTEM FOR RESTRICTING USE OF A GRID COMPUTER BY A COMPUTING GRID

TC/A.U.: Frantz B. Jean
Examiner: 2151

Mail Stop Petitions
Attention: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR § 1.181

OR, IN THE ALTERNATIVE, PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper response to the Office Action mailed on January 16, 2007 which set a three-month shortened statutory period for responding to the Office Action. The abandonment date of this application was July 16. 2007.

As provided in MPEP §711.03(c), the undersigned attorney as Representative for the Applicant believes that the above-identified application was improperly abandoned by the Office, and hereby petitions for withdrawal of abandonment and resetting the time for response, based on the following facts and information:

PAGE 2/22 * RCVD AT 4/24/2008 3:55:55 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/33 * DNIS:2738300 * CSID:605 232 2612 * DURATION (mm-ss):03-52

525

6. No fee is believed due for this petition, but if a fee is required, the Commissioner is authorized to be charged to Deposit Account No. 50-0439 (Gateway).

7. Although Applicant's representative believes this Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action under 37 CFR § 1.181(a) to be correct and appropriate, he also states that any error inadvertently made by him which resulted in abandonment of this application was unintentional. In the event it is deemed that a Petition to Revive Abandoned Application under 37 CFR §1.137(b) is required to revive this application, such petition is hereby made and the Commissioner is authorized to charge the Petition for Revival fee (as well as any other fees required) to Deposit Account No. 50-0439 (Gateway).

8. In the case of the Petition to Revive Abandoned Application under 37 CFR §1.137(b) such a case, a response to the Office Action of January 16, 2007 is being submitted herewith.

Withdrawal of abandonment, or in the alternative a revival of the patent application, is respectfully requested.

Respectfully submitted,

GATEWAY, INC.

By _____ Date: April 24, 2008

Jeffrey A. Proehl (Reg. No. 35,987)
Customer No. 24,333
610 Gateway Dr., Y-04
N. Sioux City, SD 57049
Telephone (605) 846-2042 ext. 26809 (Lori Boulware – pat. assist.)
Fax (605) 232-2612

PAGE 4/22 * RCVD AT 4/24/2008 3:55:55 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/33 * DNIS:2738300 * CSID:605 232 2612 * DURATION (mm-ss):03-52

21

1. On or about April 17, 2003 an Appointment of Power of Attorney (a copy of which is attached as "Exhibit A") was submitted to the U.S.P.T.O. with the filing of the present patent application. That Power of Attorney by Mark S. Walker (Registration No. 30,699) acting for Spotware Technologies, Inc. granted the aforesaid power to the attorneys associated with U.S.P.T.O. Customer No. 35,638.

2. A "Request for Customer Number Data Change" was filed on September 30, 2003 for U.S.P.T.O. Customer Number 35,638 to change the correspondence address associated with Customer Number 35,638 to 610 Gateway Dr., Y-04, N. Sioux City, SD USA (see Exhibit "B").

Trans. not filled out properly App # Blank

We received the change for Cust. No.

3. The receipt of the Request of Exhibit "B" was acknowledged by a "Notice of Customer Number Record Change" dated October 8, 2003 (see Exhibit "C"), which reflected the changed correspondence address.

4. On or about January 16, 2007, the U.S.P.T.O. mailed out a first Office Action for the subject patent application (see Exhibit "D" for the first page of the Office Action). However, rather than sending the Office Action to the correspondence address associated with Customer Number 35,638, the Office Action was sent to the address previously associated with Customer Number 35,638 prior to the filing of the Request for Customer Number Data Change" filed nearly three and a half years earlier.

5. The Office Action was not received by the undersigned at the correspondence address, nor was the Notice of Abandonment which was subsequently-mailed July 31, 2007.

PAGE 3/22 * RCVD AT 4/24/2008 3:55:55 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/33 * DNIS:2738300 * CSID:605 232 2612 * DURATION (mm-ss):03-52

UNITED STATES PATENT AND TRADEMARK OFFICE

8-1-08 10/419481

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed :

Patent No.: 7,236,631
Patent Issued : June 26, 2007
Inventor(s):.Kamran Reihani
Title: SYSTEM AND MEHTOD FOR AUTOMATED SYMBOLIC RECOGNITIN INCLUDING LOGICAL SYMBOLS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322or 1.323.

The alleged errors, on title page, item [76] is printed in accordance with the record.
The inventors' addresses are printed in accordance with the address on the Declaration, therefore the error was the result of applicants' failure to comply with the requirement that the correct addresses be indicated on the Declaration Oath. No correction is in order here under the provisions of Rule 1.323 (required fee currently $100.00, unless a petition is granted.

However, a petition under 37 CFR 1.182 (required fee currently $130.00) should be directed to the attention of the Assistant Commissioner for patents, using the following mailing address or Fax number

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, DVC 20231

By Fax: Attn: Office of Petitions

Eva James
For Mary Diggs
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 125

Kamran Reihani
214 Providence Glen Drive
Chapel Hill, NC 27514

e.J.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-22-08

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/419483 Patent No.: 7227995

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

Should drawing be entered?

E James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: ok to enter.

BHAVESH M. MEHTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2624
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

GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: Troy Rockwood	: DECISION ON REQUEST FOR
Patent Number	: 7603720	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/419,491	04/21/2003	Ismael Rodriguez	PD-01-742	2253

22462 7590 07/17/2009
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

EXAMINER
HOANG, DANIEL L

ART UNIT	PAPER NUMBER
2436	

MAIL DATE	DELIVERY MODE
07/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUL 17 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

George H. Gates
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST
SUITE 1050
LOS ANGELES, CA 90045

In re Application of: RODRIGUEZ, Ismael
Application No. **10/419,491**
Filed: April 21, 2003
Atty. Docket No: PD-01-742
For: VISIBLE WATERMARK TO PROTECT MEDIA CONTENT FROM SERVER TO PROJECTOR

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition under 37 CFR § 1.181, filed on June 3, 2009 to invoke the Supervisory Authority of the Commissioner to review the sufficiency and propriety of the Declarations submitted in this patent application.

Specifically, Petitioner seeks a review of the following issues: (A) Whether the declaration under 37 C.F.R. §1.131 by inventor Ismael Rodriguez is *sufficient to establish conception of the invention prior to the effective dates of the references*; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys Jack M. Rafter and Victor G. Cooper are *sufficient to establish diligence in reduction to practice*.

The petition is **DENIED.**

STATUTES, RULES AND PROCEDURES

1002 [R-2] Petitions to the Director of the USPTO

§ 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.

1002.02(c) [R-2] Petitions and Requests Decided by the Technology Center Directors

3. Petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR §1.181 involving any ex parte action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for, as for example:

... (d) relative to *formal sufficiency and propriety of affidavits under 37 CFR §1.131* (MPEP § 715.08), 1.132 (MPEP § 716) and 1.608, MPEP § 2308 - § 2308.02;

715.04 [R-6] Formal Requirements of Affidavits and Declarations include:

I. Who may make the affidavit or declaration – all inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s).

II. Formal requirement of affidavits and declarations must further include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

715.08 [R-6] Passed Upon by Primary Examiner

The *question of sufficiency* of affidavits or declarations under 37 CFR §1.131 should be *reviewed and decided by a primary examiner.*

Review of questions of formal sufficiency and propriety are by petition filed under 37 CFR §1.181. Such petitions are answered by the Technology Center Directors (MPEP § 1002.02(c))

Review on the merits of a 37 CFR §1.131 affidavit or declaration is by appeal to the Board of Patent Appeals and Interferences.

§ 1.131 Affidavit or declaration of prior invention.

(a) When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, *may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.* The effective date of a U.S. patent, U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. 102(e). Prior invention may not be established under this section in any country other than the United States, a NAFTA country, or a WTO member country. Prior invention may not be established under this section before December 8, 1993, in a NAFTA country other than the

United States, or before January 1, 1996, in a WTO member country other than a NAFTA country. Prior invention may not be established under this section if either:

(1) The rejection is based upon a U.S. patent or U.S. patent application publication of a pending or patented application to another or others which claims the same patentable invention as defined in § 41.203(a) of this title, in which case an applicant may suggest an interference pursuant to § 41.202(a) of this title; or

(2) The rejection is based upon a statutory bar.

(b) *The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application.* Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence must be satisfactorily explained.

1201 [R-3] Introduction

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. *Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits,* and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and *the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.* However, since 37 CFR §1.181(f) states that any petition not filed within 2 months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. In re Watkinson, 900 F.2d 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

OPINION

A review of the record shows that non-final office action mailed 3/03/09 states that: "the affidavit filed 12/11/08 under 37 C.F.R. has been *considered but was found* ***ineffective*** *to overcome the Yeaung, Katayama and Stone references*." (see page 2 of action).

Hence, the question of sufficiency of affidavits or declarations under 37 CFR §1.131 with respect as to (A) Whether the declaration under 37 C.F.R. §1.131 by inventor Ismael Rodriguez is *sufficient to establish conception of the invention prior to the effective dates of the references*; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys Jack M. Rafter

and Victor G. Cooper are *sufficient to establish diligence in reduction to practice* has been be reviewed and decided by a primary examiner, as required by the above statutes and/or rules.

The reasons to support the examiner's decision were that the facts presented were deemed *insufficient to show/establish* conception of the invention prior to the effective dates of the references and *insufficient* to show/establish *diligence* in reduction to practice.

Petitioner seeks a review of the following issues: (A) Whether the declaration under 37 C.F.R. §1.131 by inventor Ismael Rodriguez is *sufficient to establish conception* of the invention prior to the effective dates of the references; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys Jack M. Rafter and Victor G. Cooper are *sufficient to establish diligence* in reduction to practice.

The **effectiveness** of the declaration as to whether it is sufficient to (a) establish conception of the invention prior to the effective dates of the references; and (b) establish diligence in constructive reduction to practice ***does not*** pertain to the ***formal sufficiency and propriety*** of the declaration filed under 37 C.F.R. §1.131 and thereby **not** petitionable under 37 C.F.R. §1.181 which are answered by the Technology Center Directors in accordance with MPEP § 1002.02(c). Review of questions of formal sufficiency and propriety are for example, untimeliness, unsigned, denied entry, etc.

Review of questions as to: (A) Whether the declaration under 37 C.F.R. §1.131 by inventor Ismael Rodriguez is ***sufficient to establish conception of the invention prior to the effective dates of the references***; and (B) Whether the declaration under 37 C.F.R. §1.131 by Applicant's attorneys Jack M. Rafter and Victor G. Cooper are ***sufficient to establish diligence in constructive reduction to practice,*** pertain to the **effectiveness/merits** of a 37 CFR §1.131 affidavit or declaration and thereby are issues to be address by appeal to the Board of Patent Appeals and Interferences.

The effectiveness of the declaration under 37 C.F.R. §1.131 depends on the resolution of that appealable issue. The issue of reduction to practice is a question of law based on the underlying facts. Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1376, 231 U.S.P.Q. 81, 87 (Fed.Cir.1986), cert. denied, 480 U.S. 947, 107 S. Ct. 1606, 94 L.Ed.2d 792 (1987). The issues requested by Petitioner to be reviewed are not directed to a petitionable issue.

CONCLUSION

For the reasons above stated, the petition under 37 C.F.R. §1.181 to invoke the Supervisory Authority of the Commissioner to review the sufficiency and propriety of the Declarations submitted in this patent application is **denied.**

Any inquiry regarding this decision should be directed to Jack B. Harvey, Director of TC 2400 at (571) 272-4056. A second point of Contact is Beatriz Prieto at (571)-272-3902.

/bp/

Jack B. Harvey, Director Technology Center 2400
Networking, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

COPY MAILED

OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Willem Franciscus, et al. :
Application No. 10/419,492 : ON PETITION
Filed: April 21, 2003 :
Attorney Docket No. MCA-601 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on April 26, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $1020 extension of time submitted on July 27, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition satisfies the requirement 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) the required statement of unintentional delay have been received. Accordingly, the petition filed August 5, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1700, Art Unit 1723 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 0 2 2007

OFFICE OF PETITIONS

MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA MA 01821

In re Application of	:	
Willem Franciscus Catherina Kools et al.	:	
Application No. 10/419,492	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No. MCA-601 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 7, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 8, 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 RCE and Amendment, (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 $ 450 extension of time fee submitted with the petition on November 3, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account along with the petition fee of $1500 because it was charged twice.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571)272-2991.

This application is being referred to Technology Center AU 1723 for appropriate action by the Examiner in the normal course of business on the reply received

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 02-05

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Peterson et al.	:	DECISION GRANTING
Application No. 10/419,493	:	PETITION
Filed: 21 April, 2003	:	
Att'y Dkt No. 112300-147	:	

This is a decision on the petition filed on 17 November, 2003, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 21 April, 2003.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

Petitioners allege that the application was deposited in Express Mail service on 21 April, 2003. In support, on 17 November, 2003, petitioners supplied a copy of USPS Express Mail Post Office to Addressee Customer Label No. EV110953812US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the "date-in" on the copy of the USPS Express Mail Customer Label provided is illegible, a search of the USPS Internet Track & Confirm Database reveals that this Express Mail Label No. was accepted by the USPS on 21 April, 2003.

In view of the above, the petition is granted. No petition fee is required.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to 21 April, 2003, and for mailing of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Track & Confirm

Shipment Details

You entered EV11 0953 812U S

Your item was delivered at 11:06 am on April 22, 2003 in WASHINGTON, DC 20231 to PATENT OFFICE 20231. The item was signed for by D KIRKLAND. Detailed shipping information has been restored from files offline.

Here is what happened earlier:

- ARRIVAL AT UNIT, April 22, 2003, 9:56 am, WASHINGTON, DC 20599
- ENROUTE, April 22, 2003, 7:31 am, WASHINGTON, DC 20074
- ACCEPTANCE, April 21, 2003, 7:53 pm, CHICAGO, IL 60607
- ENROUTE, April 21, 2003, 3:58 pm, CHICAGO, IL 60607

Notification Options

Request Proof of Delivery What is this? Go>

Copyright © 1999-2002 USPS. All Rights Reserved. Terms of Use Privacy 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

Roger H. Stein
Wallenstein & Wagner, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

COPY MAILED
OCT 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Kiamars Hajizadeh et al.	:	DECISION ON PETITION
Application No. 10/419,503	:	TO WITHDRAW
Filed: April 21, 2003	:	FROM RECORD
Attorney Docket No. 3873 P 028	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2006.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **we no longer represent the Assignee**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Dr. A. Mateem Ahmed**
c/o New World Medical, Inc.
10763 Edison Court
Rancho Cucamonga, CA 91730

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 06-05

Paper No: __

FROST BROWN TODD LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202-4182

COPY MAILED

JUN 1 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Santeforte	:	
Application No. 10/419,506	:	DECISION ON PETITION
Filing Date: 21 April, 2003	:	
Attorney Docket No. 9187000.506588	:	

This is a decision on the petition filed on 28 September, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts (as to the oath/declaration, surcharge) mailed on 30 June, 2003, with reply due on or before Monday, 1 September, 2003;
- the application went abandoned after midnight 30 August, 2003;
- the Office mailed the Notice of Abandonment on 30 August, 2004;

- the instant petition (with fee authorization) was filed on 28 September, 2004, and included therewith the reply in the form of the oath/declaration and payment authorization for the surcharge.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the petition, fee, reply and statement/showing requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**, and surcharge (($65.00) charged as authorized to Deposit Account 06-2226.

The instant application is released to OIPE for further processing as necessary before being forwarded for examination.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/419,506	04/21/2003	Richard A. Santefort	9187000.506588

CONFIRMATION NO. 2280

FROST BROWN TODD LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202-4182

FORMALITIES LETTER

OC000000010388596

Date Mailed: 06/30/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of **$65** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

05/17/2005 OXELLEY 00000005 082200 10419506

01 FC:2051 65.00 DA

UNITED STATES 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

Gerard H. Bencen
Suite 114
201 SE 2nd Avenue
Gainesville FL 32601

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of
William Toreki
Application No. 10/419,510
Filed: April 21, 2003
Attorney Docket No.: QMT-7R
Title: MATERIALS AND METHODS FOR TREATING LUMBER AND WOOD PRODUCTS

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed November 5, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed July 9, 2003, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 10, 2003. A Notice of Abandonment was mailed August 30, 2004.

With the petition, Petitioner has submitted the petition fee, a declaration, the surcharge associated with the late filing of the same, and the proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

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.

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 the delay in submitting the required reply under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.
Petitioner has also filed a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address. 37 C.F.R. §1.4(c) sets forth, *in toto*:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

As such, the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address will not be entered.

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

cc: ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE, PA 19081-0209

---

2 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).

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 7/28/2009
Patent No. : 7,337,941 B2
Serial No. : 10/419,520
Inventor(s) : Scott et al.
Issue Date : March 4, 2008
Title : **FLUX COATED BRAZING SHEET**
Doc./File No. : **02-0419**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with reference(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied. However, further consideration will be given your request in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, including the current fee of 100.00.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER, BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER PA 15069-0001

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: E. Itzhak Lerner	: DECISION ON REQUEST FOR
Patent Number	: 7611722	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 05/18/2010

Applicant : E. Itzhak Lerner
Patent Number : 7611722
Issue Date : 11/03/2009
Application No : 10/419,536
Filed : 04/21/2003

: 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 **41** 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Mailed 6/6/06

In re Application of	:
Rekha Gupta-Bansal et al	:
Serial No.: 10/419,565	: WITHDRAWAL OF ATTORNEY
Filed: April 21, 2003	:
Attorney Docket No.: ABGX-004	:

This is in response to applicants' attorneys' request, filed March 31, 2006, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no clear reason for withdrawal, as required. Applicants' attorney indicates that a letter (no copy provided) was received March 16, 2006, from applicants apparently indicating Bozicevic, Field & Francis were to withdraw from representation. However, Bozicevic, Field & Francis filed a response to the outstanding Office action on March 28, 2006, and filed this request to withdraw three days later. The response would appear to be in direct opposition or contradiction to the alleged letter dismissing the attorneys of record. Absent clarification as to the chain of events, the request must be dismissed in order for the response to be considered as a bona fide response from applicants.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/15/2005

TO SPE OF : ART UNIT **OPLA**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/419592 6872420

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:

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 1762

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wallenstein & Wagner, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago IL 60606-6630

COPY MAILED

NOV 17 2006

OFFICE OF PETITIONS

In re Application of	:	
HAJIZADEH, et al.	:	
Application No. 10/419,614	:	DECISION ON PETITION
Filed: April 21, 2003	:	TO WITHDRAW
Attorney Docket No. 3873 P 027	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2006.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "we no longer represent the assignee", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Dr. A. Mateem Ahmed**
c/o New World Medical, Inc.
10763 Edison Court
Rancho Cucamonga, CA 91730

UNITED STATES 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

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

NOV 03 2003

OFFICE OF PETITIONS

In re Application of	:	
Delpuch et al.	:	DECISION REFUSING
Application No. 10/419,621	:	STATUS UNDER
Filed: April 21, 2003	:	37 CFR 1.47(a)
Attorney Docket No. 5266-06201OTV187/ORG/US	:	
For: SUPPORTING COMMON INTERACTIVE TELEVISION FUNCTIONALITY THROUGH PRESENTATION ENGINE SYNTAX	:	

This is a decision on the petition under 37 CFR 1.47(a), filed September 22, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy item (2) above.

The declaration fails to list the citizenship of the non-signing inventor. The declaration fails to list the mailing or residential address for the non-signing inventor.

A proper declaration should be submitted with any request for reconsideration.

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

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. 11

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

COPY MAILED

JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	DECISION ACCORDING
Delpuch et al.	:	STATUS UNDER
Application No. 10/419,621	:	37 CFR 1.47(a)
Filed: April 21, 2003	:	
Attorney Docket No. 5266-06201OTV187/ORG/US	:	
For: SUPPORTING COMMON INTERACTIVE TELEVISION FUNCTIONALITY THROUGH PRESENTATION ENGINE SYNTAX	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed November 13, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers or cannot be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

COPY MAILED

OCT 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dudai, Wendy	:	
Application No. 10/419,632	:	
Filed: April 21, 2003	:	
Attorney Docket No. WD-1-AM	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 17, 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 April 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 2, 2004. A Notice of Abandonment was mailed on August 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now 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

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

COPY MAILED

APR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 10/419,640	:	DECISION GRANTING PETITION
Filed: April 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0360	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 2, 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 February 27, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

COPY MAILED

JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Harry Weiss	:	
Application No. 10/419,641	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 4303P2629	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 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. If 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 above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 8, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 9, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE T. Denion

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/419,643

Paper No.: _____

DATE : 6/24/05

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction on Patent No.: 6883735

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Thomas E Denion — **SPE**

3748 — **Art Unit**

PAGE 1/1 * RCVD AT 7/5/2005 2:25:21 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:7466844 * CSID:7033087763 * DURATION (mm-ss):00-50

SPE T. Denion

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/419,643

Paper No.: _____

DATE : 6/24/05

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction on Patent No.: 6883735

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Thomas E Denion — **SPE**

3748 — **Art Unit**

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Fay Sharpe Fagan Minnich and McKee LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2579

Dear Applicant:

The Box PGPub replacement drawings for application number 10/419,650 received on 5/19/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/21/03

Stephanie L Seidman
Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive 7th Floor
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/419,653 received on 6/26/03 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061005

DATE : October 5, 2006

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7033387

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: Corrine M. McDermott **Art Unit** 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCULLY SCOTT MURPHY & PRESSER PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Ellsworth et al.	:	
Application No. 10/419,661	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No. 16072	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 5, 2007, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on February 6, 2008. A Notice of Abandonment was mailed May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHARMACIA & UPJOHN
7000 PORTAGE ROAD
KZO-300-104
KALAMAZOO MI 49001

COPY MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,563,449
Issued: July 21, 2009
Application No. 10/419,661
Filed: April 21, 2003
Attorney Docket No. PC25521

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)" filed July 27, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from forty-seven (47) days to one hundred ninety-nine (199) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On July 21, 2009, the above-identified application matured into US Patent No. 7,563,449 with a revised patent term adjustment of 47 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 in view of the decision in Wyeth, they are entitled to an additional 152 days of patent term adjustment due to exceeding three year pendency.

The 152-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 21, 2003 and a request for continued examination (RCE) having being filed on September 21, 2006. The filing of an RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentees assert that in addition to this 152 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 481 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132, pursuant to 37 CFR 1.702(a)(1) and (a)(2).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 434 days for applicant delay.

Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (152 days) and the period of Examination Delay (481 days) to the extent that these periods of delay are not overlapping. Patentees contend that no portion of the Three Year Delay period overlaps with the examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 633 days, which includes the period of Three Year Delay (152 days) and the period of Examination Delay (481 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 199 days (152 + 481 (331 +150) reduced by 0 overlap – 434 (applicant delay)).

The Office notes that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentee used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the period of adjustment is 153 days (not 152 days as suggested by patentees), counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S. C. 111(a), April 22, 2006, and ending on the date the RCE was filed, September 21, 2006. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero,' " MPEP 2731. "For example, a period beginning on April 1, and ending on April 10 is ten (and not nine) days in length." Id.

Thus, as of the filing of the RCE on September 21, 2006, the application was pending three years and 153 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a total period of adjustment of 481 days for Office delay was entered. At issue is whether patentees should accrue 153 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 481 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 153 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely

track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154(b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on September 21, 2006. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, 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 from April 21, 2003 to September 21, 2006. Thus, only the 331 days of patent term adjustment accorded prior to the filing of the RCE are considered in determining overlap. The 150 days for Office delay occurring subsequent to the filing of the RCE is not considered. The 153 days attributed to Office delay pursuant to 37 CFR 1.702(b) is determined to overlap with the 331 days attributed to Office delay pursuant to 37 CFR 1.702(a)(1). 481 (331 + 150) 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.

In view thereof, the Office affirms the revised determination of patent term adjustment at the time of the issuance of the patent is 47 days (481 (331 + 150) days of Office delay – 434 days of applicant delay).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

APR 29 2004

MAILED

APR 29 2004

OFFICE OF THE DIRECTOR
TC 3600

Ware, Fressola, Van Der Sluys &
Adolphson LLP
Bradford Green, Building 5
755 Main Street, P.O. Box 224
Monroe, CT 06468

In re application of	:	**DECISION ON PETITION**
Paul J. Plishner	:	**TO MAKE SPECIAL**
Application No. 10/419,689	:	**(APPLICANT'S AGE)**
Filed: April 21, 2003	:	
For: VEHICLE WITH A DISTRIBUTED MOTOR		

This is a decision on the petition submitted on December 17, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Paul J. Plishner, indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 4/27/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED
APR 14 2005
OFFICE OF PETITIONS

In re Application of	:	
Ellis et al.	:	DECISION ON PETITION
Application No. 10/419,705	:	UNDER 37 CFR 1.78(a)(6)
Filed: April 19, 2003	:	
Attorney Docket No. 329228001US4	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application No. 60/212,380, filed June 14, 2000.

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the

provisional application number (consisting of the series code and serial number).

It appears that petitioner attempted to include an amendment, containing a reference to the prior-filed provisional application No. 60/212,380, in the body of the petition. However, petitioner failed to comply with the requirements of 37 CFR 1.78(a)(5)(iii).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and an amendment[1] or an Application Data Sheet, containing a reference to the prior-filed provisional application 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 FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks
Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

[1] *Note* 37 CFR 1.121 and 37 CFR 1.4(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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Ellis et al.	:	DECISION ON PETITION
Application No. 10/419,705	:	UNDER 37 CFR 1.78(a)(6)
Filed: April 19, 2003	:	
Attorney Docket No. 329228001US4	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed April 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application No. 60/212,380, filed June 14, 2000.

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the

provisional application number (consisting of the series code and serial number).

Petitioner submitted an amendment with the renewed petition containing a reference to provisional application No. 60/212,380, filed June 14, 2000. However, the amendment as it currently reads is improper. This application, No. 10/419,705, cannot claim the benefit of provisional application No. 60/212,380, filed June 14, 2000, because application No. 10/419,705 was filed more than twelve months after the date on which the provisional application was filed. See 35 U.S.C. § 119(e). Accordingly, petitioner failed to comply with the requirements of 37 CFR 1.78(a)(5)(iii).

Before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and an amendment[1] or an Application Data Sheet, containing a proper reference to the prior-filed provisional application 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 FAX: (703) 872-9306
Attn: Office of Petitions
(On or after July 15, 2005 - (571) 273-8300)

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

---

[1] Note 37 CFR 1.121 and 37 CFR 1.4(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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED

SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Ellis et al.	:	DECISION ON PETITION
Application No. 10/419,705	:	UNDER 37 CFR 1.78(a)(6)
Filed: April 19, 2003	:	
Attorney Docket No. 329228001US4	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Applications, No. 60/212,380, filed June 14, 2000, and No. 60/457,528,[1] filed March 24, 2003.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

[1] The USPTO did not note the claim for priority to prior-filed provisional Application No. 60/457,528 on filing because petitioner referenced the docket number in the first sentence of the specification following the title, but did not identify the provisional application number. Therefore, since petitioner did not provide the Office with the provisional Application number within the time period specified in 37 CFR 1.78(a)(5)(ii), it is appropriate to treat the benefit claim to provisional Application No. 60/457,528 in the present petition.

A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title. However, the amendment is not acceptable as drafted since it improperly incorporates by reference prior-filed application, No. 60/212,380. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

In view of the issuance of this application into Patent No. 6,933,469 on August 23, 2005, a request for a Certificate of Correction[2] and the $100.00 fee thereof are required as a condition for acceptance of the instant petition under 37 CFR 1.78(a)(6).

Therefore, petitioner must submit a renewed petition under 37 CFR 1.78(a)(6), accompanied by an application data sheet or a substitute amendment[3] deleting the incorporation by reference statement. Additionally, petitioner must submit a completed Certificate of Correction (with the $100.00 fee), which includes the benefit claim to prior-filed provisional Application No. 60/212,380.

Further correspondence with respect to this matter should be addressed as follows:

---

[2] Petitioner does not need to include the benefit claim to prior-filed provisional Application No. 60/457,528 in the Certificate of Correction because it appears on the printed patent.

[3] *Note* 37 CFR 1.121

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED
JUL 2 0 2006
OFFICE OF PETITIONS

In re Patent No. 6,933,469	:	
Issue Date : August 23, 2005	:	DECISION GRANTING PETITION
Application No. 10/419,705	:	UNDER 37 CFR 1.78(a)(6) AND
Filed: April 19, 2003	:	REQUEST FOR CERTIFICATE OF
Attorney Docket No. 329228001US4	:	CORRECTION

This is a decision on the third renewed petition under 37 CFR 1.78(a)(6), filed September 22, 2005,[1] to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application Nos. 60/212,380, filed June 14, 2000, and 60/457,528, filed March 24, 2003. A request for a Certificate of Correction has been submitted to reflect the benefit claim for prior-filed provisional Application No. 60/212,380 on the Letters Patent.[2]

The petition is **GRANTED**.

The claim for benefit of the prior-filed provisional applications was not made within the time period set forth in 37 CFR 1.78(a)(5)(ii) and did not include a reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(i) and 1.78(a)(5)(iii).

The petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

---

[1] The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

[2] Prior-filed provisional Application No. 60/457,528 already appears on the Letters Patent.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed provisional 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.

This matter is being referred to the Certificates of Correction Branch for processing the request for a Certificate of Correction in accordance with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/419,705	04/19/2003	3742	1526	32922-8001US4	21	70	11

CONFIRMATION NO. 1546

CORRECTED FILING RECEIPT

OC000000019694923

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Date Mailed: 07/20/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kent D. Ellis, Seattle, WA;
Kenneth S. Siegner, Calimesa, CA;
Charles C. Wyatt, Corona, CA;
Jack Wilkerson, Eutis, FL;

Power of Attorney: The patent practitioners associated with Customer Number **25096**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/880,725 06/12/2001 PAT 6,653,607
and claims benefit of 60/457,528 03/24/2003
and claims benefit of 60/374,853 04/20/2002
and said 09/880,725 06/12/2001
claims benefit of 60/212,380 06/14/2000

Foreign Applications

If Required, Foreign Filing License Granted: 06/24/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/419,705

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

PERSONAL WARMING SYSTEMS AND APPARATUSES FOR USE IN HOSPITALS AND OTHER SETTINGS, AND ASSOCIATED METHODS OF MANUFACTURE AND USE

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICHARD D. FLADUNG
STRASBURGER & PRICE, LLP
1401 MCKINNEY
SUITE 2200
HOUSTON TX 77010

COPY MAILED

JUN 19 2007

OFFICE OF PETITIONS

In re Application of
Daemen, et al.
Application No. 10/419,713
Filed: April 21, 2003
Attorney Docket No. 10278.0104

DECISION ON PETITION

This is a decision on the petition under the unintentional delay provisions of 37 CFR 1.137(b), filed January 19, 2007 (certificate of mailing date January 16, 2007), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed March 22, 2005 . Accordingly, the date of abandonment of this application is June 23, 2005. A Notice of Abandonment was mailed on September 2, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00 and the publication fee of $300.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Regarding the statement of unintentional delay: While the attorney signing the petition was not in a position to know the entire delay was unintentional, petitioners have supplied several statements of facts from individuals involved with the application when the application became abandoned, describing the circumstances surrounding the delay in submitting the issue and publication fees. Petitioners appear to have made a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The revocation , power of attorney, and change of correspondence address filed with the present petition has been entered and made of record. Please find enclosed documents showing the requested changes.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

This application is being referred to Publishing Division for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notices regarding change in power of attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/419,713	04/21/2003	Roger Auguste Daemen	

CONFIRMATION NO. 1514

OC000000024372375

64304
RICHARD D. FLADUNG
STRASBURGER & PRICE, LLP
1401 MCKINNEY
SUITE 2200
HOUSTON, TX 77010

Date Mailed: 06/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Shuree W Brantley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT 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
10/419,713	04/21/2003	Roger Auguste Daemen	

CONFIRMATION NO. 1514

OC000000024372354

James F. Weiler
Attorney-at-Law
Suite 1560
One Riverway
Houston, TX 77056

Date Mailed: 06/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Shuree W. Bentley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RICHARD D. FLADUNG STRASBURGER & PRICE, LLP
1401 MCKINNEY SUITE 2200
HOUSTON TX 77010

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Roger Auguste Daemen et al :
Application No. 10/419,713 :
Filed: April 21, 2003 :
For: HARDFACING ALLOY, METHODS, AND PRODUCTS :

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 January 19, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1775 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STRASBURGER & PRICE, LLP
ATTN: IP SECTION
1401 MCKINNEY
SUITE 2200
HOUSTON TX 77010

COPY MAILED

SEP 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Roger Auguste Daemen et al	:	
Application No. 10/419,713	:	DECISION DISMISSING PETITION
Filed: April 21, 2003	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 16294.2070	:	

This is a decision on the petition, filed September 24, 2007, which is being treated as a petition under 37 CFR 1.313(a) requesting withdrawal of the above-identified application from issue prior to payment of the issue fee.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on September 6, 2007, with the issue fee being due on or before December 6, 2007. The file record does not indicate that the issue fee in reply to the September 6, 2007 Notice of Allowance and Fee(s) Due has been submitted.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 1775 for appropriate processing of the RCE filed September 24, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

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

JOE MCKINNEY MUNCY
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

APR 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Yao-Tung Wang	:	
Application No. 10/419,734	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 4444-0113P		

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 2871.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OPPEDAHL PATENT LAW FIRM, LLC
P. O. BOX 4850
FRISCO, CO 80443

COPY MAILED

MAR 17 2008

OFFICE OF PETITIONS

In re Application of
John K. Stevens, et al.
Application No. 11/419,750
Filed: May 22, 2006
Attorney Docket No. VAI.P-053

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 19, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Oppedahl Patent Law Firm, LLC has been revoked by the assignee of the patent application on October 12, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: VISIBLE ASSETS, INC.
2820 ARGENTIA ROAD
UNIT 1
MISSISSAUGA, ONT L5N 8G4
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

Samsam Turkman
4533 Jefferson Street
Hanover Park, IL 60133

MAILED

APR 1 4 2005

Director's Office
Group 3700

In re Application of	:	
TURKMAN	:	
Serial No.10/419,756	:	Decision on
Filed April 22, 2003	:	Petition
For: Stink-free Non-overflow Automatic Toilet	:	

Applicant filed a petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 on December 4, 2004. The petition is **Dismissed as Moot** since no Notice of Abandonment has been mailed. Applicant mailed a response to the April4, 2004 Office Action on June 25, 2004, which was received by the United States Paten and Trademark Office on June 29, 2004. Since the response was timely filed the application has not become abandoned and the petition is unnecessary at this time.

The application has been forwarded to the examiner for reply to the response by applicant.

Richard A. Bertsch, Director
Technology Center 3700

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.
10/419,765	04/22/2003	Durward Gomez	4022-0150P	1900

2292 7590 01/09/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
CHRISS, JENNIFER A

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
01/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 1-9-08

In re application of	:	
Gomez et al.	:	DECISION ON
Serial No. 10/419,765	:	PETITION
Filed: April 22, 2003	:	
For: Gradient Density Padding Material And Method Of Making Same	:	

This is a response to appellants Petition To The Director Under 37 C.F.R. 1.181(a) filed on December 19, 2007. The petition requests that the Official Action of August 30, 2007 be quashed, and the application allowed straight away.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. The Official Action stated new grounds of rejections over a new reference. The action was also signed by a Technology Center Director.

The Petition is **Dismissed**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

SEP 1 2 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: RUEY ZOU CHEN

SERIAL NO.: 10/419,832

FILED: April 22, 2003

FOR: CIRCULAR SAW HAVING SAW ARM ANGLE ADJUSTING DEVICE

GROUP ART UNIT: 3724

EXAMINER: Stephen CHOI

ATTY. REFERENCE: CHIU3102/BEU

COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The below identified communication(s) or document(s) is(are) submitted in the above application or proceeding:

- ☒ **Amendment; Declaration; Statement by Deleted Inventor in support of Petition to Correct Inventorship; Assent of Assignee to Correction of Inventorship; Statement by added Inventor in support of Petition to Correct Inventorship**
- ☐ Priority Document
- ☐ Formal Drawings
- ☒ **Assignment w/Coversheet w/Fee**
- ☒ **Check - $270 ($100 - COC; $130 - Rule 48 Petition; $40- Assignment)**
- ☒ **Certificate of Correction w/Fee**
- ☒ **Rule 48 Petition w/Fee**

☒ Please debit or credit **Deposit Account Number 02-0200** for any deficiency or surplus in connection with this communication. A duplicate copy of this sheet is provided for use by the Deposit Account Branch.

☐ Small Entity Status is claimed.

☐

09/15/2008 WABDELR3 00000018 6860183
01 FC:1811 100.00 OP

23364
Customer Number

BACON & THOMAS, PLLC
625 SLATERS LANE - FOURTH FLOOR
ALEXANDRIA, VIRGINIA 22314
(703) 683-0500

DATE: September 12, 2008

Respectfully submitted,

Benjamin E. Urcia
Attorney for Applicant
Registration Number: 33,805

B&T-Copy of document transmittal.wpd

OIPE IAP66
SEP 1 2 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. PATENT NO. 6,860,183	)	
	)	
Ruey Zou CHEN	)	**Examiner: Stephen Choi**
	)	
Issue Date: March 1, 2005	)	**Group Art Unit: 3724**
	)	
Appl. Ser. No. 10/419,832 (4/22/2003)	)	**Atty. Doc. CHIU3102**

For: Circular Saw Having Saw Arm Angle Adjusting Device

AMENDMENT, PETITION AND FEE TO CORRECT ORIGINAL ERRONEOUSLY NAMED INVENTOR (37 CFR §1.48(a))

Honorable Commissioner For Patents
Washington, D.C. 20231

Sir:

This amendment and petition is to correct the incorrect naming of inventors in the original declaration submitted on April 22, 2003.

Please delete the following person named in the original declaration as inventor of this application: **Ruey Zou CHEN**

Please add the following person not named in the original declaration as inventor of this application: **Cheng-Hung CHIU**

Attached is:

(1) Respective statements from each person being deleted as an inventor (Ruey Zou Chen) and each person being added as an inventor (Cheng-Hung Chiu) that the error in inventorship occurred without deceptive intention on his or her part. *37 CFR §1.48(a)(2)*

09/15/2008 WABDELR3 00000018 6860183
02 FC:1464 130.00 OP

(2) A declaration by all of the actual inventors. *37 CFR §1.48(a)(2)*

(3) The written consent of the assignee, Rexon Co., Ltd.. *37 CFR §1.48(a)(5)*

(4) A check in the amount of $130.00. 37 CFR §1.17(i)

Respectfully submitted,

BACON & THOMAS, PLLC

By: BENJAMIN E. URCIA
Registration No. 33,805

Date: September 12, 2008

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, Virginia 22314

Telephone: (703) 683-0500

NWB:S:\Producer\beu\Client Folders\Rexon\48pet.wpd

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,860,183

DATED : March 1, 2005

INVENTOR(S) : Ruey Zou CHEN (Corrected to Cheng-Hung CHIU)

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Change the Inventor listed in item (75) on the cover of the above-identified patent from

"Ruey Zou Chen"

to

–Cheng-Hung Chiu–.

Mailing address of sender:

Patent No. 6,860,183

No. of add'l copies
@ .30 per page

Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

OIPE IAP66
SEP 1 2 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. PATENT NO. 6,860,183	)	
	)	
Ruey Zou CHEN	)	Examiner: Stephen Choi
	)	
Issue Date: March 1, 2005	)	Group Art Unit: 3724
	)	
Appl. Ser. No. 10/419,832 (4/22/2003)	)	Atty. Doc. CHIU3102

For: Circular Saw Having Saw Arm Angle Adjusting Device

STATEMENT BY DELETED INVENTOR IN SUPPORT OF
PETITION TO CORRECT INVENTORSHIP
UNDER 37 CFR §1.48(a)

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

I, Mr. Ruey Zou CHEN, whose address is No. 261, Ruenhua Rd., Dali City, Taichung Hsien, Taiwan 401, R.O.C., hereby declare:

1. In the original filing documents for the above-identified patent application, I was listed as inventor.

2. As set forth on the attached Declaration Under 37 CFR §1.63, I am not an inventor of the invention claimed in the above-identified patent.

3. The error in inventorship in the above-identified patent occurred without deceptive intention on my part.

4. 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 and the like so made are punishable by fine, or imprisonment, or both, under §1001 of Title 18 of the United States

Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which the verified statement is directed.

Respectfully submitted,

Date: 9/4/08

Ruey Zou Chen

Ruey Zou Chen

NWB:S:\Producer\bcc\Client Folders\Rcasts\chenlcflow.wpd

OIPE IAP66
SEP 12 2008
PATENT & TRADEMARK OFFICE

ATTORNEY/DOCKET NO: CHIU3102

DECLARATION FOR PATENT APPLICATION AND APPOINTMENT OF ATTORNEY

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention (Design, if applicable) entitled:

Circular Saw Having Saw Arm Angle Adjusting Device

the specification of which (check one):

☐ is attached hereto, or ☒ was filed on: April 22, 2003 as U.S. Application Number or PCT International Application Number: 10/10/419,832, and issued on March 1, 2005 as U.S. Patent No. 6,860,183

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as set forth in U.S. Patent No. 6,860,183 . I acknowledge the duty to disclose information which is material to patentability as defined in *Title 37, Code of Federal Regulations, §1.56.* I hereby claim foreign priority benefits under *Title 35, United States Code §119* of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION(S)			PRIORITY CLAIMED	
Number	Country	Day/Month/Year Filed	Yes	No

☐ Additional Priority Application(s) Listed on Following Page(s)

I HEREBY CLAIM THE BENEFIT UNDER TITLE 35 U.S. CODE §119(E) OF ANY U.S. PROVISIONAL APPLICATIONS LISTED BELOW.	
Application Number	Day/Month/Year Filed

☐ Additional Provisional Application(s) Listed on Following Page(s)

I hereby claim the benefit under *Title 35, United States Code, §120* of any United States application(s) or PCT international application(s) designating The United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of *Title 35, United States Code, §112,* I acknowledge the duty to disclose information which is material to patentability as defined in *Title 37, Code of Federal Regulations, §1.56* which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application Number	Filing Date	Status - Patented, Pending or Abandoned

☐ Additional US/PCT Priority Application(s) listed on Following Page(s)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under *section 1001 of title 18 of the United States Code* and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: J. Ernest Kenney, Reg. No. 19,179; Eugene Mar, Reg. No. 25,893; Richard E. Fichter, Reg. No. 26,382; Thomas J. Moore, Reg. No. 28,974; Eric S. Spector, Reg. No. 22,495; Felix J. D'Ambrosio, Reg. No. 25,721; George A. Loud, Reg. No. 25,814; Benjamin E. Urcia, Reg. No. 33,805; Chung C. Chen, Reg. No. 31,725; and

I(we) authorize my(our) attorneys to accept and follow instructions from _____ regarding any matter related to the preparation, examination, grant and maintenance of this application, any continuation, continuation-in-part or divisional based thereon, and any patent resulting therefrom, until I(we) or my(our) assigns withdraw this authorization in writing.

Send correspondence to: BACON & THOMAS, PLLC
625 Slaters Lane - 4th Floor
Alexandria, VA 22314-1176

Telephone Calls to:
(703) 683-0500

FULL NAME OF FIRST OR SOLE INVENTOR	CITIZENSHIP
Cheng-Hung CHIU	Taiwan, R.O.C.
Residence (city, and either state or foreign country, MPEP §605.02) Taichung Hsien, Taiwan	POST OFFICE ADDRESS No. 261, Ruenhua Rd., Dali City, Taichung Hsien, Taiwan 401, R.O.C.
DATE 9/1/08	SIGNATURE Cheng-Hung Chiu

☐ *See following page(s) for additional joint inventors.*

OIPE IAP66
SEP 1 2 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. PATENT NO. 6,860,183	)	
	)	
Ruey Zou CHEN	)	Examiner: Stephen Choi
	)	
Issue Date: March 1, 2005	)	Group Art Unit: 3724
	)	
Appl. Ser. No. 10/419,832 (4/22/2003)	)	Atty. Doc. CHIU3102

For: Circular Saw Having Saw Arm Angle Adjusting Device

ASSENT OF ASSIGNEE TO CORRECTION
OF INVENTORSHIP
(37 CFR §1.48(a))

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Sir:

Rexon Co., Ltd., whose address is No. 261, Ruenhua Rd., Dali City, Taichung Hsien, Taiwan 401, R.O.C., hereby assents to the correction of inventorship filed herewith.

The undersigned submits that to the best of the undersigned's knowledge and belief, title is in the assignee identified above. An assignment of the invention from the originally named inventor, Mr. Ruey Zou Chen, to Rexon Co., Ltd., was recorded on April 22, 2003 at reel 013991, frame 0113.

The undersigned is either a principal, a representative, or an employee of the assignee authorized to execute this document on behalf of the assignee.

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 and the like so made are punishable by fine, or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may

Patent No. 6,860,183

jeopardize the validity of the application, any patent issuing thereon, or any patent to which the verified statement is directed.

Respectfully submitted,

REXON CO., LTD.

Date: 9/5/08

By: _____
Signature

K. F. Wang
Printed Name

Chairman
Title

OIPE IAP66
SEP 12 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. PATENT NO. 6,860,183	)	
	)	
Ruey Zou CHEN	)	Examiner: Stephen Choi
	)	
Issue Date: March 1, 2005	)	Group Art Unit: 3724
	)	
Appl. Ser. No. 10/419,832 (4/22/2003)	)	Atty. Doc. CHIU3102

For: Circular Saw Having Saw Arm Angle Adjusting Device

STATEMENT BY ADDED INVENTOR IN SUPPORT OF
PETITION TO CORRECT INVENTORSHIP
UNDER 37 CFR §1.48(a)

Honorable Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Mr. Cheng-Hung CHIU, whose address is No. 261, Ruenhua Rd., Dali City, Taichung Hsien, Taiwan 401, R.O.C., hereby declare:

1. In the original filing documents for the above-identified patent application, I was not listed as inventor.

2. As set forth on the attached Declaration Under 37 CFR §1.63, I am the sole inventor of the invention claimed in the above-identified patent.

3. The error in inventorship in the above-identified patent occurred without deceptive intention on my part.

4. 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 and the like so made are punishable by fine, or imprisonment, or both, under §1001 of Title 18 of the United States

Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which the verified statement is directed.

Respectfully submitted,

Date: September 1, 2008

Cheng-Hung Chiu

Cheng-Hung Chiu

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/16/07

TO SPE OF : ART UNIT 2453 Stephen Meier

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/419843 Patent No.: 6755510

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: OK to enter

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE _____ Art Unit _____

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. BOX 1450
Alexandria, Va 22313- 1450
www.uspto.gov.

DATE: December 21, 2005

Lawrence A. Stahl
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, NY 10112-3800

Patent No: 6944420 B2
Applicant: Akihito Kanamori, et al.
Application No.: 10/419844
Issued: September 13, 2005
Title: IMAGE HEATING APPARATUS WITH FLEXIBLE SLEEVE AND FLANGE MEMBERS IN CONTACT WITH THE SLEEVE

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 Rules 1.322.

The alleged errors on title page at item 56 are an editing change made in accordance with the style of the Invention Patent Manual. Comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request in these matters is hereby **denied**.

Further consideration concerning this matter should be files and directed to:

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Correction Branch

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificates of Correction
(703) 305-8309 or 305-1882

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-1-07

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7070207 B2 (10/419849

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.

Claims

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Please DO NOT apply changes to any line of Columns 142 and 144 to avoid improper multiple dependencies.
Thanks!

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE

2818
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,070,207

DATED: July 4, 2006

INVENTOR(S): Motoo ASAI

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

YES { On the title page, item (54), please change "MULTILAYERD" to --MULTILAYERED--.

NO {
- Column 142, line 11, change "claims 1 to 8" to --claims 1 ~~or~~ and 6 to 8--.
- Column 142, line 17, change "claims 1 to 8" to --claims 1 ~~or~~ and 6 to 8--.
- Column 142, line 25, change "claims 1 to 8" to --claims 1 ~~or~~ and 6 to 8--.
- Column 142, line 28, change "claims 1 to 8" to --claims 1 ~~or~~ and 6 to 8--.

YES { Column 143, line 56, change "claim 15" to --claim 28--.

NO {
- Column 144, line 17, change "claims 28 to 32" to --claims 28, 29 ~~or~~ and 32--.
- Column 144, line 27, change "claims 28 to 32" to --claims 28, 29 ~~or~~ and 32--.
- Column 144, line 31, change "claims 28 to 32" to --claims 28, 29 ~~or~~ and 32--.

YES {
- Column 145, line 8, change "claim 38 or 41" to --claim 38 or 39--.
- Column 145, line 11, change "claim 38 or 41" to --claim 38 or 39--.

Mailing address of sender:

Patent No. 7,070,207

Customer Number

22850

No. of add'l copies @ .30 per page

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)

JAN 1 1 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,070,207

DATED: July 4, 2006

INVENTOR(S): Motoo ASAI

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, item (54), please change "MULTILAYERD" to --MULTILAYERED--.

Column 142, line 11, change "claims 1 to 8" to --claims 1 or 6 to 8--.

Column 142, line 17, change "claims 1 to 8" to --claims 1 or 6 to 8--.

Column 142, line 25, change "claims 1 to 8" to --claims 1 or 6 to 8--.

Column 142, line 28, change "claims 1 to 8" to --claims 1 or 6 to 8--.

Column 143, line 56, change "claim 15" to --claim 28--.

Column 144, line 17, change "claims 28 to 32" to --claims 28, 29 or 32--.

Column 144, line 27, change "claims 28 to 32" to --claims 28, 29 or 32--.

Column 144, line 31, change "claims 28 to 32" to --claims 28, 29 or 32--.

Column 145, line 8, change "claim 38 or 41" to --claim 38 or 39--.

Column 145, line 11, change "claim 38 or 41" to --claim 38 or 39--.

Mailing address of sender:

Patent No. 7,070,207

Customer Number

22850

No. of add'l copies @ .30 per page

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/06)

JAN 1 1 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070921

DATE : September 24, 2007

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7,070,207 (10/419,849)

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The Request for Certificate of Correction filed 01/03/2007 is approved (all changes apply)

SPE: Steven Loke **Art Unit** 2818

Steven Loke

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. None

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
OCT 01 2007
OFFICE OF PETITIONS

In re Application of	:	
Philippe Boire et al.	:	
Application No. 10/419,872	:	DECISION ON PETITION
Filed: 236910US0CONT	:	UNDER 37 C.F.R. § 1.137(A)
Attorney Docket No.	:	
236910US0CONT	:	
Title: SUBSTRATE WITH A	:	
PHOTOCATALYTIC COATING	:	

This is a decision on the petition filed August 10, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief (notice), mailed November 29, 2006, which set a one-month period for response. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested, and no

1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

response was received. Accordingly, the above-identified application became abandoned on December 30, 2006. A notice of abandonment was mailed on July 31, 2007.

The present petition has not been executed.

37 C.F.R. § 10.18(a) sets forth:

> 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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

Since the present petition has been submitted without a signature, the petition cannot be processed. For this reason, the petition under 37 C.F.R. § 1.137(a) must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries

---

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.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 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.

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
NOV 06 2007
OFFICE OF PETITIONS

In re Application of	:	
Philippe Boire et al.	:	
Application No. 10/419,872	:	DECISION ON RENEWED PETITION
Filed: 236910US0CONT	:	UNDER 37 C.F.R. § 1.137(A)
Attorney Docket No.	:	
236910US0CONT	:	
Title: SUBSTRATE WITH A	:	
PHOTOCATALYTIC COATING	:	

This is a decision on the renewed petition filed October 1, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief (notice), mailed November 29, 2006, which set a

1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);

(2) the petition fee;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

one-month period for response. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested, and no response was received. Accordingly, the above-identified application became abandoned on December 30, 2006. A notice of abandonment was mailed on July 31, 2007.

PROCEDURAL HISTORY

An original petition was filed August 10, 2007, pursuant to 37 C.F.R. § 1.137(a). This petition was dismissed via the mailing of a decision on October 1, 2007.

A discussion follows.

THE APPLICABLE STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[2]

The burden of showing the cause of the delay is on the person seeking to revive the application[3].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[4]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[5]

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's

---

2 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

3 Id.

4 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[6].

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[7].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[8]."

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the

---

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
7 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.

client," but "if the client freely chooses counsel, it should be bound to counsel's actions[12]."

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[13]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[14]."

THE RELEVANT PORTION OF THE M.P.E.P.

MPEP §711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement (emphasis added). For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that

---

12 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
13 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
14 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

> the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

The petition fee was submitted with the original petition. With this renewed petition, Petitioner has submitted a Supplemental Reply Brief in response to the notice. A terminal disclaimer is not required.

Consequently, Petitioner has met requirements (1) and (2) of 37 C.F.R. § 1.137(a).

Regarding the third requirement, Petitioner has asserted that the notice was not received, and that a search of the docket records has not resulted in the location of the relevant communication.

However, **it does not appear that Petitioner has included a statement attesting to the fact that a search of the file jacket indicates that the Office communication was not received.**

Moreover, **it does not appear that a copy of the docket record was included with this renewed petition.** Although Petitioner as asserted that "a copy of our firm's docket records for the above-identified application" was attached to this renewed petition, the same has not been located in the electronic file.

It follows that this petition must be **DISMISSED**.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. § 1.137(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[15], hand-delivery[16], or facsimile[17]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[18].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[19]. 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

---

15 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
16 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
17 (571) 273-8300- please note this is a central facsimile number.
18 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
19 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Philippe Boire et al.	:	
Application No. 10/419,872	:	DECISION ON SECOND RENEWED
Filed: 236910US0CONT	:	PETITION UNDER 37 C.F.R.
Attorney Docket No.	:	§ 1.137(A)
236910US0CONT	:	
Title: SUBSTRATE WITH A	:	
PHOTOCATALYTIC COATING	:	

This is a decision on the second renewed petition filed January 7, 2008, pursuant to 37 C.F.R. § 1.137(a)[1], 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 Notification of Non-Compliant Appeal Brief (notice), mailed November 29, 2006, which set a

---

1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);

(2) the petition fee;

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;

(4) a terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

one-month period for response. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested, and no response was received. Accordingly, the above-identified application became abandoned on December 30, 2006. A notice of abandonment was mailed on July 31, 2007.

An original petition was filed August 10, 2007, pursuant to 37 C.F.R. § 1.137(a). This petition was dismissed via the mailing of a decision on October 1, 2007. A renewed petition was filed in October 11, 2007, which was dismissed via the mailing of a decision on November 6, 2007.

The petition fee was submitted with the original petition. With the renewed petition, Petitioner submitted a Supplemental Reply Brief in response to the notice. A terminal disclaimer is not required.

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing was not received, that he has searched both the file jacket and the docket record, and he 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 his burden of establishing that the mailing was not received.

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 Supplemental Appeal Brief that was received with this second renewed petition on January 7, 2008 can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

In re Application of:
TORRIS, WILLIAM T. et al
Serial No.: 10/419,934
Filed: Apr. 22, 2003
Docket: 0100/0148
Title: TAMPER EVIDENT VACUUM TUBE HOLDER ASSEMBLY AND NEEDLE HUB ASSEMBLY THEREFOR

6/30/08

DECISION ON PETITION

This is a decision on the petition filed on Jun. 10, 2008 seeking to forward the case to the Board of Patent Appeals and Interferences for adjudication. This petition is being considered pursuant to 37 CFR § 1.181(a) (3). No fee is required for this petition. The petition fee $130.00 may be refunded upon request.

The petition is **Granted.**

In the petition, the petitioner requests that the Director to direct the examiner to consider the appeal brief filed on May 5, 2005 and forward the application to the Board of Patent Appeals and Interferences for final resolution or allow the application.

The record shows that:

1) In response to the applicant's amendment of Mar. 27, 2006, on Jun. 12, 2006 the examiner mailed a final Office action.
2) On Sep. 12, 2006, the petitioner filed a notice of appeal followed with a Pre-Brief Conference Request, appealing the claims under final rejection.
3) In response to the Pre-Brief Conference Decision of Oct. 26, 2006, on Jan. 18, 2007, the examiner re-opened prosecution and issued a non-final Office action with newly found references.
4) In response, the applicant filed an amendment to the claims on Apr. 13, 2007.
5) On Jul. 17, 2007, the examiner issued a second final rejection.
6) On Oct. 17, 2007, the applicant filed a second notice of appeal and an appeal brief on Dec. 14, 2007.
7) On Mar. 21, 2008, the examiner issued another non-final Office action maintaining the rejection, but reopening the prosecution of the case.

8) On Jun. 10, 2008, the petitioner filed third notice of appeal and a new appeal brief.

9) On Jun. 10, 2008 the present petition was filed requesting the examiner to forward the case to the Board of Patent Appeals and Interferences for its adjudication or allow the application.

Discussion and Analysis

A review of the application reveals that there is a prolonged prosecution in this case. The application history also shows the examiner reopened prosecution two times. Office policy requires examiners to complete a thorough prior art search, and avoid piecemeal examination as much as possible. Office policy discourages piece meal prosecution as set forth in M.P.E.P §707.07(g)[1]. Regrettably due to late discovery of prior art, prosecution of the applicant's invention has been unavoidably prolonged. It should be noted that the Primary Examiner has a duty to consider the merits of the claims under M.P.E.P. § 1004. In order to avoid re-opening prosecution, the examiner is reminded to perform a complete and thorough search of prior art considering not only the claims presented, but also any subject matter the examiner reasonably anticipates might be incorporated into a subsequent amendment in accordance with M.P.E.P. 904.03[2].

In response to the petition, the examiner is hereby instructed to timely set up an appeal conference in accordance with M.P.E.P. §1207.01. Additionally, the examiner is also directed to conclude the examination of the application as soon as possible.

Conclusion

Under the circumstances, the relief requested by the petitioner is granted. The application is being forwarded to the Supervisory Patent Examiner in Art Unit 3767 for consideration of the appeal brief filed on Jun. 10, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Petition Granted.

Frederick R. Schmidt, Director
Technology Center 3700

---

[1] M.P.E.P. § 707.07(g) states: Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, how-ever, undue multiplication of references

[2] M.P.E.P. § 904.03 states in relevant part: "'It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment."

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

5/15/09

In re Application of:
TORRIS, WILLIAM T. et al
Serial No.: 10/419,934
Filed: Apr. 22, 2003
Docket: 0100/0148
Title: TAMPER EVIDENT VACUUM TUBE HOLDER ASSEMBLY AND NEEDLE HUB ASSEMBLY THEREFOR

DECISION ON PETITION

This is a decision on the petition filed on May 1, 2009 seeking to forward the case to the Board of Patent Appeals and Interferences for adjudication. This petition is being considered pursuant to 37 CFR § 1.181(a) (3). No fee is required for this petition.

The petition is **Granted.**

In the petition, the petitioner requests that the Director to direct the examiner to consider the appeal brief filed on May 1, 2009 and forward the application to the Board of Patent Appeals and Interferences for final resolution.

The record shows that:

1) In response to the applicant's amendment of Mar. 27, 2006, on Jun. 12, 2006 the examiner mailed a final Office action.
2) On Sep. 12, 2006, the petitioner filed a notice of appeal followed with a Pre-Brief Conference Request, appealing the claims under final rejection.
3) In response to the Pre-Brief Conference Decision of Oct. 26, 2006, on Jan. 18, 2007, the examiner re-opened prosecution and issued a non-final Office action with newly found references.
4) In response, the applicant filed an amendment to the claims on Apr. 13, 2007.
5) On Jul. 17, 2007, the examiner issued a second final rejection.
6) On Oct. 17, 2007, the applicant filed a second notice of appeal and an appeal brief on Dec. 14, 2007.
7) On Mar. 21, 2008, the examiner issued another non-final Office action maintaining the rejection, but reopening the prosecution of the case.
8) On Jun. 10, 2008, the petitioner filed third notice of appeal and a new appeal brief.
9) On Jun. 10, 2008 the present petition was filed requesting the examiner to forward the case to the Board of Patent Appeals and Interferences for its adjudication or

allow the application. On June 30, 2008, the petition was granted.

10) After an Appeal Conference, on February 3, 2009, the examiner re-opened the prosecution with citation of new art.

11) On May 1, 2009, the petitioner filed fourth notice of appeal and a new appeal brief.

12) On May 1, 2009 the present petition was filed requesting the examiner to forward the case to the Board of Patent Appeals and Interferences for its adjudication.

Discussion and Analysis

A review of the application reveals that there is a prolonged prosecution in this case. The application history also shows the examiner reopened prosecution two times. Office policy requires examiners to complete a thorough prior art search, and avoid piecemeal examination as much as possible. Office policy discourages piece meal prosecution as set forth in M.P.E.P §707.07(g)[1]. Regrettably due to late discovery of prior art, prosecution of the applicant's invention has been unavoidably prolonged. It should be noted that the Primary Examiner has a duty to consider the merits of the claims under M.P.E.P. § 1004. In order to avoid re-opening prosecution, the examiner is again reminded to perform a complete and thorough search of prior art considering not only the claims presented, but also any subject matter the examiner reasonably anticipates might be incorporated into a subsequent amendment in accordance with M.P.E.P. 904.03[2].

In response to the petition, the examiner is hereby instructed to timely set up an appeal conference in accordance with M.P.E.P. §1207.01. Additionally, the examiner is also directed to conclude the examination of the application within three months or sooner from the filing date of the latest appeal brief.

Conclusion

Under the circumstances, the relief requested by the petitioner is granted. The application is being forwarded to the Supervisory Patent Examiner in Art Unit 3767 for consideration of the appeal brief filed on May 1, 2009. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Petition Granted.

Robert Olszewski, Director
Technology Center 3700

[1] M.P.E.P. § 707.07(g) states: Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references

[2] M.P.E.P. § 904.03 states in relevant part: "'It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment."

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON SPIVAK McCLELLAND,
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

APR 13 2007

OFFICE OF PETITIONS

In re Application of	:
Hiroshi Aono et al	:
Application No. 10/419,941	: DECISION GRANTING PETITION
Filed: April 22, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 236922US90	:

This is a decision on the petition, filed April 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 March 12, 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 2132 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\Apr10\419941.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P O BOX 34385
WASHINGTON, DC 20045-9998

COPY MAILED

APR 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Ulrich PILZ	:	
Application No. 10/419,965	:	DECISION ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 31901-180720 RK	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application. In view of the evidence submitted, the petition will be treated as having been filed on September 30, 2004.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Corrected Application Papers (hereafter Notice) mailed June 25, 2003, which set a two (2) month extendable period for reply. A reply was due on or before August 25, 2003. A Notice of Abandonment was mailed on August 30, 2004.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 22, 2003 of "Formal Drawings (4 sheets, 1-4 Figs.)." A copy of the previously submitted reply accompanies the petition.

The drawings acknowledged as having been received in the USPTO on August 22, 2003 are not of record in the application file and have not to date been located. However, MPEP 503 states that "[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." Accordingly, it is concluded that drawings in reply to the Notice of June 25, 2003 were timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The set of drawings received in the USPTO on December 16, 2004 will be used in place of the drawings acknowledged as having been received in the Office on August 22, 2003.

This application is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing with the drawings filed on December 16, 2004.

Frances Hicks

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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Wen Yuan. Chen	:	
Application No. 10/419,976	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. 035879-0162	:	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 9, 2009.

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 assignee of the patent application on May 8, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GHC RESEARCH DEVELOPMENT
CORPORATION
701 GROVE ROAD
GREENVILLE, SC 29605

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

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Wen Yuan Chen	: DECISION ON REQUEST FOR
Patent Number	: 7632809	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/419,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **921** 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

NATH & ASSOCIATES, PLLC
Sixth Floor
1030 15th Street, N.W.
Washington, DC 20005

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of: Erez Zimhoni	:	
Application No. 10/419,987	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 25418	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to the Office of Publications for further processing into a patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-06

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

COPY MAILED

MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
John B. Morrell	:	
Application No. 10/419,994	:	DECISION ON PETITION
Filed: 21 April, 2003	:	
Atty Docket No. 1062/E05	:	

This is a decision on the petition filed on 20 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 17 August, 2005, for failure to timely reply to the non-final Office action mailed on 16 May, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37

[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)).

CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

This application is being referred to Technology Center Art Unit 2125 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/26/07

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/420054 Patent No.: 6948~~9~~816

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: _____

SUE PURVIS — SPE
2826 — 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

ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford MA 01886

COPY MAILED

JUL 08 2008

OFFICE OF PETITIONS

In re Application of
Edwards et al.
Application No. 10/420,071
Filed: 04/18/2003
Attorney Docket No. 2846.1003 US10

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 May 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1616 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/420,071	04/18/2003	1616	1152	2846.1003 US10	34	1

CONFIRMATION NO. 4236

CORRECTED FILING RECEIPT

38473
ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

OC000000030842290

Date Mailed: 07/08/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David A. Edwards, Boston, MA;
Robert S. Langer, Newton, MA;
Rita Vanbever, Brussels, BELGIUM;
Jeffrey Mintzes, Brighton, MA;
Jue Wang, Clifton, NJ;
Donghao Chen, Lexington, MA;

Assignment For Published Patent Application

Massachusetts Institute of Technology, Cambridge, MA
The Penn State Research Foundation, University Park, PA

Power of Attorney:

Anne Craig--32976
Carolyn Elmore--37567

Domestic Priority data as claimed by applicant

This application is a CON of 09/752,106 12/29/2000 ABN
which is a CIP of 09/394,233 09/13/1999 PAT 6,652,837
which is a CIP of 08/971,791 11/17/1997 PAT 5,985,309
which claims benefit of 60/059,004 09/15/1997
and is a CON of 08/784,421 01/16/1997 PAT 5,855,913
which is a CIP of 08/739,308 10/29/1996 PAT 5,874,064
which is a CIP of 08/655,570 05/24/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 08/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/420,071**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Particles for inhalation having sustained release properties

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES 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 08-03

Paper No. 5

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO IL 60601

COPY MAILED

SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Osborn et al.	:	
Application No. 10/420,086	:	ON PETITION
Filed: 22 April, 2003	:	
Atty Docket No. 35491.00.0001	:	

This is a decision on the petition filed on 18 August, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 22 April, 2003, with Figures 3-8 described in the specification as a part of the original disclosure.

The petition is **dismissed**.

On 22 April, 2003, the application was filed.

On 19 June, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 22 April, 2003, but that Figures 3-8 described in the specification appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on 18 August, 2003, the present petition was filed accompanied by three (3) sheets of drawings containing Figures 3-8. Petitioners concede that Figures 3-8 were inadvertently omitted from the application as filed, but request that the application, including Figures 3-8, be accorded a filing date of 23 April, 2003, because "a complete description of the drawings including all of the numbered elements in Figures 3-8 was included in the application as originally filed."

Petitioners argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this

application. A review of the papers originally filed reveals that two (2) sheets of drawings containing Figures 1 and 2 were received with the application papers deposited on 22 April, 2003. No sheets of drawings containing Figures 3-8 were filed on 22 April, 2003, since no such sheets of drawings are present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. As petitioners concede that the omitted sheets of drawings were not in fact filed on 22 April, 2003, the application cannot be accorded a filing date of 22 April, 2003, 2003, with Figures 3-8 as a part of the original disclosure.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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, due to the absence in the record of a postcard receipt itemized with respect to the drawings that bears a USPTO date stamp of 22 April, 2003, showing that three (3) sheets of drawings containing Figures 3-8 were received in the USPTO on 22 April, 2003, the application cannot be accorded a filing date of 22 April, 2003, with Figures 3-8 as a part of the original disclosure.

The application will be processed and examined using only the application papers present on 22 April, 2003. The copies of the three (3) drawing sheets containing Figures 3-8 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 22 April, 2003, using the application papers filed on that date.

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

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

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 University Avenue
E. Palo Alto, Texas 94303-2748

COPY MAILED

AUG 22 2005

OFFICE OF PETITIONS

In re Application of:
STANBERY, Billy, J.
U.S. Application No.: 10/420,091
Filing Date: April 22, 2003
Attorney's Docket No.: HELE1130-1
For: COMPOSITIONS INCLUDING A COLLECTION LAYER

DECISION ON PETITION
(37 CFR 1.137(b))

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed October 28, 2003, which set a shortened statutory period for 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, this application became abandoned at midnight on January 28, 2004.

The present 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 a response to the Office action mailed October 28, 2003; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the Office action of October 28, 2003 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136(a) 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 submitted with the present petition on April 21, 2005 was filed 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 AU 1753

It is noted that the present petition was submitted by attorney John J. Bruckner under a different address than the correspondence address of record listed above. A courtesy copy of this decision will be forwarded to the address set forth on the present petition; however, until

submission of an acceptable change of correspondence address, all future communications with respect to this application will be mailed only to above-listed correspondence address of record.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office Of Petitions

cc: John J. Bruckner
JOHN J. BRUCKNER, PC
5708 Back Bay Lane
Austin, Texas 78739

10420099

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-8-05

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction on Patent No.: 6814404

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.

Can this be Approved

Thank You For Your Assistance

Ennis Young
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The Amendment to Claim 4 is NOT approved. This language on the claim was required for allowance of the claim.

DAVID DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
Art Unit

PTOL-306 (REV. 7/03)
U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 4, 2006

Patent No. : 6,740,334 B2
Ser. No. : 10/420,102
Inventor(s) : Yukihiro Takada, et al.
Issued : May 25, 2004
Title : **BONE RESORPTION SUPPRESSING AGENT**
Docket No. : **KODA18A.001C1**
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 111 or (703) 308-8309

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Patent No. 6,740,334 :
Issue Date: May 25, 2004 :
Application No. 10/420,102 : ON PETITION
Filed: April 18, 2003 :
Attorney Docket No. KODA18A.001C1 :

This is a decision on the petition filed May 24, 2006 (certificate of mailing date May 22, 2006), which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction based on the proposed Certificate of Correction filed on March 30, 2006 (certificate of mailing date March 28, 2006).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS & BUJOLD
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER NH 03101-1151

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Norman Matheson Lindsay	:	
Application No. 10/420,104	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. COLGRA P39AUS	:	

This is a decision on the petition, filed May 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3711 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : May 26, 2005

TO : Director, Office of Patent Publication

FAX RECEIVED

FROM : Office of the Deputy Commissioner for Patent Examination Policy

MAY 26 2005

SUBJECT : Withdrawal from Issue of

OFFICE OF PETITIONS

Applicant(s) :Norman Matheson Lindsay
Application No. :10/420,104
Filed :April 18, 2003

The above-identified application has been assigned Patent No. 6,905,421 and an issue date of June 14, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 14, 2005:

> "All reference to Patent No. 6,905,421 to Norman Matheson Lindsay of United Kingdom for GOLF CLUBS appearing in the Gazette of June 14, 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

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

10/15/04

In re Application of RANKEN, PAUL F. Serial No. 10/420123 Filed: April 21, 2003 For: FLAME RETARDED STYRENIC POLYMER FOAMS	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to 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 Jim Seidleck (571) 272-1078.

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

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE LA 70801

cc: Niomi Farmer
Tamara Greene
Mary McAskill

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 08 2005

OFFICE OF PETITIONS

MISHRILAL JAIN
11620 MASTERS RUN
ELLICOTT CITY MD 21042

In re Application of	:
Gaoyuan Zhu	:
Application No. 10/420,145	: DECISION GRANTING PETITION
Filed: April 22, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. GEDDES-7	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of June 20, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUINTERO LAW OFFICE
1617 BROADWAY, 3RD FLOOR
SANTA MONICA, CA 90404

COPY MAILED

AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Wang	:	
Application No. 10/420,163	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 10111381	:	

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.

As authorized, the deficiency payment of $691 will be charged to petitioner's deposit account.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3673 for such action as the nature of the case requires.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEORGE M. STERES
20200 PIERCE RD
SARATOGA CA 95070

COPY MAILED

JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth D. Ames :
Application No. 10/420,166 : ON PETITION
Filed: April 21, 2003 :
Attorney Docket No. KACL001 :

This is a decision on the petition under 37 CFR 1.137(a), filed on May 25, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The application became abandoned on December 10, 2004, for failure to file a proper response to the final Office action mailed on September 9, 2004, which set a three (3) month shortened statutory period for reply. On May 25, 2005 (certificate of mailing dated October 24, 2004), petitioner submitted an amendment in response to the final Office action. However, the examiner found this amendment did not *prima facie* place the application in condition for allowance. An Advisory Action accompanies the present decision. A Notice of Abandonment was mailed on April 4, 2005.

In the petition, petitioner asserted that he filed a timely response to the final Office action of September 9, 2004. Petitioner submitted a copy of an amendment with the petition, which contained a certificate of mailing pursuant to 37 CFR 1.8, dated October 24, 2004. Accordingly, the amendment after final rejection was filed timely; however, the amendment did not *prima facie* place the application in condition for allowance. Therefore, the application became abandoned for failure to file a proper reply to the final Office action.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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(l);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks items (1) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

---

[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).

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).[3] 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.[4]

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[5] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the file record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is regrettable that the Office did not mail an Advisory Action until the date of this decision; however, it is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed.

Abandonment takes place by operation of law for failure timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[6] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuation application prior to the expiration of the time period for reply to the final Office action and not because the amendment was misplaced by the Office or a delay in the mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office.

CONCLUSION

Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

---

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[5] See 37 CFR 1.116.

[6] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

Accordingly, the petition must be **dismissed**.

As previously stated, the examiner determined that the amendment did not to *prima facie* place the application in condition for allowance. Thus, petitioner has failed to submit the required reply with the present petition. To revive the application, petitioner must submit a proper reply **in the form of an amendment, a Notice of Appeal, a continuation application or a RCE with a proper submission.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee 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; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: 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

GEORGE M. STERES
20200 PIERCE RD
SARATOGA CA 95070

COPY MAILED
JAN 09 2006
OFFICE OF PETITIONS

In re Application of :
Kenneth D. Ames :
Application No. 10/420,166 : ON PETITION
Filed: April 21, 2003 :
Attorney Docket No. KACL001 :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 28, 2005, to revive the above-identified application.

The application became abandoned on December 10, 2004, for failure to file a proper response to the final Office action mailed on September 9, 2004, which set a three (3) month shortened statutory period for reply. On May 25, 2005 (certificate of mailing dated October 24, 2004), petitioner submitted an amendment in response to the final Office action. However, the examiner found this amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on July 20, 2005. A Notice of Abandonment was mailed on April 4, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a RCE and an amendment, made the proper statement of unintentional delay, and paid the petition fee.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2859 for processing of the RCE and the amendment filed on December 28, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

FEB 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Duane R. Pillar	:	DECISION ON APPLICATION
Application No. 10/420,187	:	FOR
Filed: April 22, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 061300-0417	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed on September 9, 2008. Applicants request review of the initial determination of patent term adjustment. The communication is treated as an application for patent term adjustment under 37 CFR 1.705(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is six hundred nineteen (619) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 12, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is five hundred ninety (590) days.

On September 9, 2008, applicants timely submitted the instant application for patent term adjustment.[1]

[1] PALM records show that the Issue Fee was received on September 9, 2008.

Applicants request that the calculation of patent term adjustment be verified.

The initial determination that applicant was entitled to 636 days of patent term adjustment under 37 CFR 1.703(e) for the period between the filing of a notice of appeal and the mailing of a final decision in favor of the applicant has been found to be incorrect. On June 4, 2004, a notice of appeal was filed. On February 24, 2006, 631 days after the filing of the notice of appeal, a Board of Patent Appeals and Interferences decision in favor of the applicant was mailed. The patent term adjustment is therefore reduced by 5 days from 636 days to 631 days.

On July 28, 2006, a Notice of Allowance was mailed, four (4) months and 34 days after the mailing of the Board of Patent Appeals and Interferences decision on February 24, 2006. Pursuant to 35 U.S.C. 154(b)(1)(A)(iii) and 37 CFR 1.703(a)(5) a period of 34 days of patent term adjustment will be entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **six hundred nineteen (619)** (679 (631+34+14) days of PTO delay, reduced by 60 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (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

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 1/28/2009
Time: 17:49:16

PTA Calculations for Application: 10/420187			
Application Filing Date:	04/22/2003	PTO Delay (PTO):	650
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	60
Post-Issue Petitions:	0	Total PTA (days):	619
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
119	01/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	34		
118	01/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	631		
117	01/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		636	
107	06/12/2008	MAIL NOTICE OF ALLOWANCE			
106	06/09/2008	ISSUE REVISION COMPLETED			
105	06/09/2008	DOCUMENT VERIFICATION			
104	06/09/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
103	06/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
102	06/09/2008	NOTICE OF ALLOWABILITY			
101	04/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	04/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
97	05/30/2008	DATE FORWARDED TO EXAMINER			
96	04/17/2008	SUPPLEMENTAL RESPONSE			
94	04/18/2008	REFERENCE CAPTURE ON IDS			
93	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		7	89
92	04/29/2008	DATE FORWARDED TO EXAMINER			
91	04/17/2008	SUPPLEMENTAL RESPONSE			
90	04/29/2008	DATE FORWARDED TO EXAMINER			
89	04/11/2008	RESPONSE AFTER NON-FINAL ACTION			
88	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	01/11/2008	MAIL NON-FINAL REJECTION	14		76
86	01/07/2008	NON-FINAL REJECTION			

85	07/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	12/20/2007	CASE DOCKETED TO EXAMINER IN GAU			
83	10/26/2007	APPEAL BRIEF REVIEW COMPLETE			
82	10/26/2007	DATE FORWARDED TO EXAMINER			
81	10/11/2007	APPEAL BRIEF FILED			
80	10/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
79	09/25/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
78	09/20/2007	APPEAL BRIEF REVIEW COMPLETE			
77	09/20/2007	DATE FORWARDED TO EXAMINER			
76.1	08/28/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
76	08/28/2007	APPEAL BRIEF FILED			
75	06/28/2007	NOTICE OF APPEAL FILED			
74	07/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
73	07/04/2007	DATE FORWARDED TO EXAMINER			
72	06/28/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
71	03/28/2007	MAIL FINAL REJECTION (PTOL - 326)			
70	03/27/2007	FINAL REJECTION			
69	01/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
68	11/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	01/18/2007	DATE FORWARDED TO EXAMINER			
66	01/08/2007	RESPONSE AFTER NON-FINAL ACTION		2	59
65	01/08/2007	REFERENCE CAPTURE ON IDS			
64.7	01/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	01/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	11/28/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
62	11/13/2006	REFERENCE CAPTURE ON IDS			
61.7	11/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	11/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	11/08/2006	FINISHED INITIAL DATA CAPTURE			

59	10/06/2006	MAIL NON-FINAL REJECTION			
58	10/02/2006	NON-FINAL REJECTION			
57	08/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	08/30/2006	REFERENCE CAPTURE ON IDS			
55.7	08/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	08/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	09/08/2006	DATE FORWARDED TO EXAMINER			
53	08/30/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	09/08/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	08/30/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	08/01/2006	EXPORT TO INITIAL DATA CAPTURE			
49	07/28/2006	MAIL NOTICE OF ALLOWANCE			
48	07/26/2006	ISSUE REVISION COMPLETED			
47	07/26/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	07/26/2006	NOTICE OF ALLOWABILITY			
45	03/01/2006	MAIL BPAI DECISION ON APPEAL - REVERSED	636		19
44	02/24/2006	BPAI DECISION - EXAMINER REVERSED			
43	12/08/2005	WAIVER OF HEARING BY APPELLANT			
42	11/18/2005	NOTIFICATION OF APPEAL HEARING			
41	07/28/2005	DOCKETING NOTICE MAILED TO APPELLANT			
40	07/28/2005	ASSIGNMENT OF APPEAL NUMBER			
39	07/14/2005	APPEAL AWAITING BPAI DOCKETING			
38	06/30/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
37	03/24/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	06/27/2005	REPLY BRIEF NOTED BY EXAMINER			
35	04/14/2005	DATE FORWARDED TO EXAMINER			
34	04/11/2005	REPLY BRIEF FILED			
33	04/11/2005	REQUEST FOR ORAL HEARING			
32	02/10/2005	MAIL EXAMINER'S ANSWER			
31	02/07/2005	EXAMINER'S ANSWER TO APPEAL BRIEF			
30	12/02/2004	DATE FORWARDED TO EXAMINER			
29	11/18/2004	APPEAL BRIEF FILED			

28	11/18/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	10/18/2004	NOTICE -- DEFECTIVE APPEAL BRIEF			
26	09/02/2004	MAIL ADVISORY ACTION (PTOL - 303)			
25	09/01/2004	ADVISORY ACTION (PTOL-303)			
24	08/10/2004	DATE FORWARDED TO EXAMINER			
23.1	08/04/2004	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
23	08/04/2004	APPEAL BRIEF FILED			
22	08/10/2004	DATE FORWARDED TO EXAMINER			
21	08/04/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
20	08/04/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	06/04/2004	NOTICE OF APPEAL FILED			
18	03/05/2004	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
17	03/05/2004	MAIL FINAL REJECTION (PTOL - 326)			
16	03/04/2004	FINAL REJECTION			
15.7	01/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		51	10
15	01/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/07/2004	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
13	11/26/2003	TERMINAL DISCLAIMER FILED			
12	11/26/2003	TERMINAL DISCLAIMER FILED			
11	12/30/2003	DATE FORWARDED TO EXAMINER			
10	11/26/2003	RESPONSE AFTER NON-FINAL ACTION			
9	08/28/2003	MAIL NON-FINAL REJECTION			
8	08/25/2003	NON-FINAL REJECTION			
7.7	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	06/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	08/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
5	07/17/2003	APPLICATION DISPATCHED FROM OIPE			
4	07/17/2003	APPLICATION IS NOW COMPLETE			
3	05/17/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/22/2003	INITIAL EXAM TEAM NN			

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of: Schwindt, Jeffrey Serial No.: 10/420,197 Filed: April 22, 2003 Docket: 15452-72271 Title: PNEUMATIC CIRCUIT	DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TREATED AS A 37 C.F.R. § 1.291 PROTEST OR 37 C.F.R. § 1.99 SUBMISSION

This is a decision on the petition filed on January 24, 2005 under 37 C.F.R. § 1.181(a)(3) by a third party not having any standing to act in the subject application. In view thereof, the petition papers, hereafter papers, are being treated as a protest under 37 C.F.R. § 1.291 or, alternatively, as a submission under 37 C.F.R. § 1.99.

The protest/submission is **DISMISSED**.

37 C.F.R. § 1.291(b) and a portion of (c) state:

> (b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:
>
> (1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.
>
> (2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest;
> or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.
>
> (c) In addition to compliance with paragraphs (a) and (b) of this section, a protest must include.
>
> (1) A listing of the patents, publication, or other information relied upon;
>
> (2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1) of this section;
>
> (3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

37 C.F.R. § 1.99 (b), (c), and (e) state:

(b) A submission under this section must identify the application to which it is directed by application number and include:

(1) The fee set forth in § 1.17(p);

(2) A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication;

(3) A copy of each listed patent or publication in written form or at least the pertinent portions; and

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent or publication in written form relied upon.

(c) The submission under this section must be served upon the applicant in accordance with § 1.248.

(e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered.

The application was published on April 07, 2005. The papers were filed on January 24, 2005.

Under 37 C.F.R. § 1.291, the papers were timely since they are required to be filed before the application is published (37 C.F.R. § 1.291(b)). However, the requisite fee has not been provided, and there is no evidence of service upon applicant in accordance 37 C.F.R. § 1.248.

Under 37 C.F.R. § 1.99, the requisite fee has not been provided and there is no evidence of service upon applicant in accordance with 37 CFR § 1.248. With respect to prior art, prior art has not been submitted. The third party is arguing inventorship and suggesting a possible rejection of claims under 35 U.S.C. § 102(f). However, this is not an appropriate prior art submission or proper subject matter for a 37 C.F.R. § 1.99 submission.

In summary, the papers fail to comply with either 37 C.F.R. § 1.291 or 37 C.F.R. § 1.99.

PROTEST/SUBMISSION DISMISSED.

A copy of the papers filed by the third party is being included with this decision for applicant's review. The papers are otherwise not part of the official record because they constitute an improper petition. Accordingly, while this decision will be of record in the file, the third party petition papers and the included attachment to this decision will be closed from public view.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

Attachment: Copy of Third Party Papers

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

DEC 26 2007

OFFICE OF PETITIONS

In re Application of :

OSORIO, Reynaldo A. et al. :
Application No. 10/420,206 : DECISION ON PETITION
Filed: April 22, 2003 : TO WITHDRAW
Attorney Docket No. **019433-000420US** : 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 November 09, 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 Mark D. Barrish on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **REYNALDO A. OSORIO**
3049 GENEVA AVENUE
DALE CITY, CA 94014

cc: **RONALD A. CLAYTON**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

DATE 12/13/07 APPLICATION NUMBER 10/420206

DOC CODE B&B DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN DAVID SWANN
60285 SUNSET VIEW DRIVE
BEND, OREGON 97702

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of
John D. SWAN
Application No. 10/420,213
Filed: August 21, 2003
Attorney Docket No. 54578

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before October 12, 2004, as required by the Notice To Pay Balance of Issue Fee Due, mailed July 08 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 16, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (here three (3)and four (4) months) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on February 16, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Glenn Brown was the party having the right to reply at the date of abandonment, Brown should explain why this application became abandoned while it was under his control and what efforts Brown made to further reply and with whom this matter was discussed. When did Brown and John D. Swan become aware of the abandonment of this application? Additionally, Brown and Swan must explain the circumstances surrounding the discovery of the abandonment of this application three (3) years and four (4) months after the mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), John D. Swan and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding

Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted i1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, three (3) years and four (4) months) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Specifically, when did the responsible person(s) realize that the issue fee was not paid from the deposit account?

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York

University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power of attorney filed by the inventor on August 06, 2008 with the petition has been accepted and made of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS M. SPEAR, JR.
P.O. BOX 1274
BEND OR 97709-1274

COPY MAILED
JAN 19 2010

In re Application of	:	
John D. SWAN	:	
Application No. 10/420,213	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before October 12, 2004, as required by the Notice To Pay Balance of Issue Fee Due, mailed November 15 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 16, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

Petitioner did not submit the required issue fee of $720.00 due when the petition was filed June 24, 2008. A fee of $685.00 was received however there is a fee deficiency of $35.00 due.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS M. SPEAR, JR.
P.O. BOX 1274
BEND OR 97709-1274

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
John D. SWANN	:	
Application No. 10/420,213	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the balance of the issue fee on or before February 15, 2005, as required by the Notice To Pay Balance OF ISSUE Fee Due, mailed November 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 16, 2005.

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 of $770.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571)-272-4231.

This application is being referred to the Office of Data Management.

Michelle R. Eason
Paralegal Specialist
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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/420,224	04/21/2003	2819	1704	X-1319-4 US	16	48	9

CONFIRMATION NO. 4324

CORRECTED FILING RECEIPT

OC000000011075265

24309
XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Date Mailed: 10/22/2003

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)

Gordon J. Brebner, Monte Sereno, CA;

Assignment For Published Patent Application

Xilinx, Inc., San Jose, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2003

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Gigabit router on a single programmable logic device

Preliminary Class

326

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON WI 53717-1914

COPY MAILED

JAN 20 2004

OFFICE OF PETITIONS

In re Application of
Manchun Lu et al.
Application No. 10/420,247
Filed: April 22, 2003
Attorney Docket No. 09820.220

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition filed December 19, 2003, which is treated as a petition 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 April 22, 2003, without an executed oath or declaration.

Accordingly, on June 19, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

In response, on December 19, 2003, the present petition was filed, accompanied by the late filing surcharge, and a four (4) month request for extension of time.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. Although ten inventors have been named, the oath or declaration has not been executed by any of them, accordingly, this petition will be treated under 37 CFR 1.47(b).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items(2), (5) and (6). In regards 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. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

In regards to item (5), petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] Petitioners should provide a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(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 1.47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

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

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

---

[1] MPEP 409.03(b).

[2] MPEP 409.03(f).

UNITED STATES 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

DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON WI 53717-1914

COPY MAILED

APR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Manchun Lu et al.
Application No. 10/420,247
Filed: April 22, 2003
Attorney Docket No. 09820.220

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed March 25, 2004 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed April 22, 2003, without an executed oath or declaration. Accordingly, on June 19, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. In response, on December 19, 2003, a petition under 37 CFR 1.47 was filed, accompanied by the late filing surcharge, and a four (4) month request for extension of time. Since the application named ten inventors and since none of the named inventor(s) had signed the oath or declaration, the petition was treated under 37 CFR 1.47(b). The petition under 37 CFR 1.47(b) was dismissed as the showing with respect to requirements (2), (5) and (6).

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.

This renewed petition is treated under 37 CFR 1.47(a) since seven of the ten named inventors have executed the oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to inventors Jeff G. Hall, Victor Lyamichev and Bruce Neri and that by their actions, they have refused to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47©), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

JEFF G. HALL
6305 DYLYN DRIVE
MADISON, WI 53719

VICTOR LYAMICHEV
1210 MCKENNA BLVD.
MADISON, WI 53719

BRUCE NERI
5714 KILKENNY PLACE
MADISON, WI 53719

COPY MAILED

APR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Manchun Lu et al.
Application No. 10/420,247
Filed: April 22, 2003
For: SINGLE NUCLEOTIDE POLYMORPHISM

Dear Mr. Hall, Mr. Lyamichev and Mr. Neri:

You are named as joint inventors 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 joint inventors.

As named inventors 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 Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON WI 53717-1914

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Alan G. Wood, et al. :
Application No. 10/420,249 :
Filed: April 21, 2003 :
Attorney Docket No. 2825.12US(90-0051.14/US) :

ON PETITION

This is a decision on the petition, filed April 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2829 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

NOV 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Alan G. Wood et al	:	
Application No. 10/420,249	:	DECISION GRANTING PETITION
Filed: April 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2825.12US (90-0051.14/US)	:	

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 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:
Alan G. Wood et al	:
Application No. 10/420,249	: DECISION GRANTING PETITION
Filed: April 21, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-2825.12US	:

This is a decision on the petition, filed March 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 March 3, 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 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

C:\Documents and Settings\FHicks\My Documents\470\Mar9\420249.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRADLEY ARANT ROSE & WHITE
INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

COPY MAILED

OCT 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Arthur A. DeCarlo et al	:	
Application No. 10/420,270	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. P57124US01GP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 23, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1632.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

BRADLEY ARANT ROSE & WHITE, LLP
INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

COPY MAILED
SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Arthur A. Decarlo et al.	:	
Application No. 10/420,270	:	DECISION GRANTING
Filed: April 22, 2003	:	PETITION UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. P57124US01GP	:	
Title: PERLECAN AND RELATED	:	
PEPTIDES AND USES THEREOF	:	

This is a decision on the petition filed May 31, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed November 30, 2005, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 24, 2006, and an advisory action was mailed on February 6, 2006. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on March 3, 2006.

The present petition was received on May 31, 2006, along with the petition fee. Petitioner has concurrently submitted a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, the associated fee, an amendment, and the proper statement of unintentional delay. No terminal

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.

disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment of May 31, 2006 can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

COPY MAILED

MAR 29 2006

OFFICE OF PETITIONS

In re Application of
William D. Holloway, Jr. et al.
Application No. 10/420,280
Filed: April 1, 2003
Attorney Docket No. 108542-04CIP2

: 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 January 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) and (3) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the

specification to add a benefit claim under 35 U.S.C. § 120 and/or 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §§ 120 and 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). In this instance petitioner can incorporate by reference application 09/698,537, which was present on transmittal but not provisional application no. 60/161,546.

Additionally, 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The petition lacks the statement required by 37 CFR 1.78(a)(3).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition with a proper statement of unintentional delay and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l 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 Patricia Faison-Ball at (571) 272- 3212 .

Frances Hicks

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

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

COPY MAILED

MAY 2 6 2006

OFFICE OF PETITIONS

In re Application of	:
William D. Holloway, Jr. et al.	:
Application No. 10/420,280	: DECISION ON PETITION
Filed: April 21, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 108542-04CIP2	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed May 12, 2006.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C.120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this

as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1618 for appropriate action on the amendment filed May 12, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/420,280	04/21/2003	1618	580	108542-04CIP2	9	13	1

CONFIRMATION NO. 5636
CORRECTED FILING RECEIPT
OC000000018928732
OC000000018928732

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Date Mailed: 05/24/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William D. Holloway JR., Carlsbad, CA;
Michael A. Holloway, Escondido, CA;
Nikolai Tankovich, San Diego, CA;
Eugene Baranov, San Diego, CA;

Power of Attorney:

Kamwah Li--34211
F Brotman--35461
Troy Schmelzer--36667
Stephen Beuerle--38380
Anthony Dain--46651
John Kyle--48318

Domestic Priority data as claimed by applicant

This application is a CIP of 10/301,416 11/21/2002
which is a CIP of 09/698,537 10/26/2000 PAT 6,521,248
This application 10/420,280
is a CIP of 10/470,655 02/14/2003
which is a CON of 09/698,537 10/26/2000 PAT 6,521,248
which claims benefit of 60/161,546 10/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 07/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/420,280

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Drugs, bio-affecting and body treating compositions

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES 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 Feb-09

LAW OFFICE OF DONALD L. WENSKAY
16909 VIA DE SANTA FE, 200
P.O. BOX 7206
RANCHO SANTA FE CA 92057

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Holloway et al. :
Application Number: 10/420280 :
Filing Date: 04/21/2003 :
Attorney Docket Number: AQU-1100-CIP2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 8, 2008, for failure to timely respond to the non-final Office action mailed on November 7, 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 July 9, 2008.

Receipt of the amendment filed on January 8, 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)).

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 application is referred to Technology Center Art Unit 1618 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARNES & THORNBURG
11 SOUTH MERIDIAN STREET
INDIANAPOLIS, IN 46204

COPY MAILED
DEC 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
SCHWINDT	:	
Application No. 10/420,296	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. 15452-72269	:	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 28, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **BARNES & THORNBURG** has been revoked by the applicant of the patent application on September 13, 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 first copied address listed below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **IPADVISORS**
2038 N. CLARK STREET
STE. 105
CHICAGO IL 60614

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
10/420,296	04/22/2003	Jeffrey Schwindt	15452-72269

CONFIRMATION NO. 3402

OC000000021547226

23643
BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Date Mailed: 12/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of: Schwindt, Jeffrey Serial No.: 10/420,296 Filed: April 22, 2003 Docket: 15452-72269 Title: EVAPORATION VALVE	DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TREATED AS A 37 C.F.R. § 1.291 PROTEST OR 37 C.F.R. § 1.99 SUBMISSION

This is a decision on the petition filed on January 24, 2005 under 37 C.F.R. § 1.181(a)(3) by a third party not having any standing to act in the subject application. In view thereof, the petition papers, hereafter papers, are being treated as a protest under 37 C.F.R. § 1.291 or, alternatively, as a submission under 37 C.F.R. § 1.99.

The protest/submission is **DISMISSED**.

37 C.F.R. § 1.291(b) and a portion of (c) state:

> (b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:
>
> (1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.
>
> (2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest;
> or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.
>
> (c) In addition to compliance with paragraphs (a) and (b) of this section, a protest must include.
>
> (1) A listing of the patents, publication, or other information relied upon;
>
> (2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1) of this section;
>
> (3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

37 C.F.R. § 1.99 (b), (c), and (e) state:

(b) A submission under this section must identify the application to which it is directed by application number and include:

(1) The fee set forth in § 1.17(p);

(2) A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication;

(3) A copy of each listed patent or publication in written form or at least the pertinent portions; and

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent or publication in written form relied upon.

(c) The submission under this section must be served upon the applicant in accordance with § 1.248.

(e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered.

The application was published on October 23, 2003. The papers were filed on January 24, 2005.

Under 37 C.F.R. § 1.291, the papers were not timely since they are required to be filed before the application is published (37 C.F.R. § 1.291(b)), the requisite fee has not been provided, and there is no evidence of service upon applicant in accordance 37 C.F.R. § 1.248.

Under 37 C.F.R. § 1.99, the requisite fee has not been provided and there is no evidence of service upon applicant in accordance with 37 CFR § 1.248. With respect to prior art, prior art has not been submitted. The third party is arguing inventorship and suggesting a possible rejection of claims under 35 U.S.C. § 102(f). However, this is not an appropriate prior art submission or proper subject matter for a 37 C.F.R. § 1.99 submission.

In summary, the papers fail to comply with either 37 C.F.R. § 1.291 or 37 C.F.R. § 1.99.

PROTEST/SUBMISSION DISMISSED.

A copy of the papers filed by the third party is being included with this decision for applicant's review. The papers are otherwise not part of the official record because they constitute an improper petition. Accordingly, while this decision will be of record in the file, the third party petition papers and the included attachment to this decision will be closed from public view.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700

Attachment: Copy of Third Party Papers

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

COPY MAILED
JUN 23 2004
OFFICE OF PETITIONS

Applicant: MACMILLAN et al.
Appl. No.: 10/420,339
Filing Date: April 21, 2003
Title: DIRECT, ENANTIOSELECTIVE ALDOL COUPLING OF ALDEHYDES USING CHIRAL ORGANIC CATALYSTS
Attorney Docket No.: CIT-3639
Pub. No.: US 2004/0024221 A1
Pub. Date: February 5, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 26, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the second inventor's name "Alan B. Northrup" is misspelled as "Alan B. Northup".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The typographical error in the front page of the patent application publication, wherein the second inventor's name is misspelled is an Office mistake, but it is not a material error. The mistake is a minor typographical. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

[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).

To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) 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 this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:200908193

DATE : August 19, 2009

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6812747

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: /Donovan Lincoln/ **Art Unit** 2816

Lamonte

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:200908193

DATE : August 19, 2009

10/420,342

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 6812747

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: /Donovan Lincoln/ **Art Unit** 2816

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE CA 95125

MAIL

NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Tapani Otala :
Application No. 10/420371 :
Filed: April 21, 2003 :
For: **METHOD AND APPARATUS FOR CREATING AN EXPANDED FUNCTIONALITY DIGITAL VIDEO DISC EFFINCIENCY** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record received January 13, 2004.

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/Agent is **GRANTED**.

A new Power of attorney was filed by the assignee on April 14, 2004.
All Attorneys/agents associated with Customer Number 22862 are withdrawn.

All future communications from the Office will continue to be directed to the address listed above 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: GLENN PATENT GROUP
3475 EDISON WAY
SUITE L
MENLO PARK, CA 94025

UNITED STATES 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.

ERIC D. COHEN
WELSH & KATZ LTD
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

COPY MAILED

AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Sang-Joon Bae et al :
Application No. 10/420,374 : NOTICE
Filed: April 22, 2003 :
Attorney Docket No. 89693

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 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Zhenkun Ma, et. al.	:	
Application No. 10/420,390	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 6917.US.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 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 March 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight June 16, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,370 for the petition to revive fee, and an amendment. As authorized, the above fee has been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1623, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Xenia Beebe Searle, et. al.	:	
Application No. 10/420,391	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 6915.US.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 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 March 15, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight June 15, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account $1,370 for the petition to revive fee, and an amendment. As authorized, the above fee has been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1623, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-17-07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7160883

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:

SPE

1624
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

Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Kent K. Leung	: DECISION ON REQUEST FOR
Patent Number	: 7599370	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/420,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1484** 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

DEC 22 2003

Paper No. 7

In re Application of	:	
John C. Lawless	:	
Serial No. 10/420,432	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO MAKE SPECIAL
For: PRY BAR HANDLE	:	

Applicant's petition, filed November 25, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lackenbach Siegel, LLP
One Chase Road
Scarsdale, NY 10583

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Alaric Dyckman et al :
Application No. 10/420,445 :
Filed: April 22, 2003 :
Attorney Docket No. QA0270 NP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 2006, 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 20, 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. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on *.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/420,445	Applicant(s) DYCKMAN ET AL.	
	Examiner Venkataraman Balasubramanian	Art Unit 1624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 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 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   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: Attached Advisory.

Venkataraman Balasubramanian

Venkataraman Balasubramanian
Primary Examiner
Art Unit: 1624 12/4/06

ADVISORY ACTION

The applicants' response, which included amendment to claims 1 and 16, and cancellation of claims 2-12, 14, 15 and 17-19,filed 7/12/2006 under 37 CFR 1.116 in reply to the previous Advisory Action dated 5/8/2006 has been considered but is not deemed to place the application in condition for allowance and will not be entered for the following reasons.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 13 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' amendment to claims to replace formula I with formula Ib introduces new matter. Note in original claims when X_1, X_2 and X_3 are N or CH, the R_5 choice is limited only three positions on the ring w but it can be in four positions. This clearly broadens the scope of the instant claims, for which there is no support in the specification.

This is a new rejection and will be applied if the current amendment were to be entered.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for treating rheumatoid arthritis, does not reasonably provide enablement for treating any or all inflammatory disorders specifically embraced in the instant invention. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims for reasons of record.

This rejection is same as made in the previous office action and is still applicable to the claim 16.

Although applicants' have limited the diseases to specific diseases as compare generic diseases by instant amendment, there is no enabling disclosure for all these various diseases. Prior art search made earlier did not suggest scope of enablement for all the diseases embraced in the instant claim 16.

Hence, this rejection is proper and is maintained.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

Venkataraman Balasubramanian

Venkataraman Balasubramanian

12/4/2006

RECEIVED
CENTRAL FAX CENTER
JUL 1 2 2006

PTO/SB/64 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) QA0270 NP

First named inventor: ALARIC DYCKMAN

Application No.: 10/420445 Art Unit: 1624

Filed: 04/22/2003 Examiner: BALASUBRAMANIAN, VENKATARAMAN

Title: ARYL KETONE PYRROLO-TRIAZINE COMPOUNDS USEFUL AS KINASE INHIBITORS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Amendment After Final Rejection (identify type of reply):
☐ has been filed previously on _____.
☑ is enclosed herewith.

07/13/2006 TL0111 00000053 193880 10420445

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____ 01 FC:1453 1500.00 DA
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PTO/SB/64 (09-04)

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature — July 12, 2006 Date

Joseph C. Wang
Typed or printed name

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
Address

44,391
Registration Number, if applicable

609-252-4931
Telephone Number

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: Information Disclosure Statement, PTO 1449 Form, and 12 References (98 Pgs)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

July 12, 2006
Date

Signature

Joseph C. Wang
Typed or printed name of person signing certificate

PAGE 3/110 * RCVD AT 7/12/2006 4:33:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/15 * DNIS:2738300 * CSID:6092524526 * DURATION (mm-ss):57-12

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
PO BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Alaric Dyckman et al	:	
Application No. 10/420,445	:	DECISION GRANTING PETITION
Filed: April 22, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. QA0270 NP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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, Amendment and an IDS; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of November 1, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1624.

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

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

COPY MAILED

JAN 20 2006

OFFICE OF PETITIONS

In re Application of Reddy et al Application No. 10/420,447 Filed: April 22, 2003 Attorney Docket No. HES 2003-IP-010250	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of December 14, 2004, 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 1755.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ms. Carole A. Mulchinski
The Aerospace Corporation
2350 East El Segundo Boulevard
M1/040
El Segundo CA 90245

COPY MAILED

FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
Simburger, et al.
Application No. 10/420,461
Filed: April 22, 2003
Attorney Docket No. D-483
For: THIN FILM SOLAR CELL ELECTRICAL CONTACTS

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO REINSTATE EARLIER FILING DATE," filed November 13, 2003 (certificate of mailing date November 10, 2003), requesting that the above-identified application be accorded a filing date of April 22, 2003, instead of the presently accorded filing date of July 14, 2003. The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **GRANTED**.

The application was deposited on April 22, 2003. On June 19, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of April 22, 2003 and informing petitioners that Figures 3a and 3b described in the specification appeared to have been omitted.

On July 14, 2003, petitioners filed a preliminary amendment seeking to add Figures 3a and 3b.

An Updated Filing Receipt was mailed on August 25, 2003. The Update Filing Receipt stated that the filing date of the above-identified application was July 14, 2003.

In response to the Notice, petitioners filed the present petition.

The mailing of a "Notice of Omitted Items" permits an applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Failure to select option (1) or (2) above is considered a constructive acceptance of the application as filed.

In the instant case, petitioners did not select option (1) or (2). The July 14, 2003 preliminary amendment clearly admits that Figures 3a and 3b were not filed on April 22, 2003 and argues that Figures 3a and 3b do not contain new matter.

What is more salient to the analysis at hand is what petitioners did **NOT** do. Petitioners did not file a petition under 37 CFR 1.182 and required fee. Petitioners did not file a supplemental oath/declaration referring to Figures 3a and 3b.

Instead, petitioners accepted the application as filed on April 22, 2003 and submitted Figures 3a and 3b as an amendment to the drawings, so that the examiner could determine whether the additional sheets of drawing contain new matter (see MPEP 608.02(h)).

The application is entitled to a filing date of April 22, 2003. The Updated Filing Receipt was mailed in error. The petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **April 22, 2003** and the mailing of a corrected filing receipt. Once the application is assigned to an examiner, he/she will consider the July 14, 2003 Amendment seeking to add Figures 3a and 3b.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application	:
Funahashi, et al.	:
Application No. 10/420,466	: DECISION ON APPLICATION
Filed: April 18, 2003	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. 2003946-0045	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed December 5, 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 eighty-seven (87) days.

The application for patent term adjustment is **DISMISSED**.

On September 12, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On December 5, 2005, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is eighty-seven (87) days.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] Applicants filed the instant application for patent term adjustment together with the payment of the issue fee.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of eighty-seven (87) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delay of ninety-eight (98) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(7). The PTO delay of 87 days has been reviewed and found to be correct. The adjustment of 98 days is at issue.

The adjustment of ninety-eight (98) days has been found to be correct. The Office mailed an Office action on September 13, 2004. Applicants timely filed a reply within three months pursuant to 37 C.F.R. §1.704(b) on October 12, 2004. However, the reply was not proper, and the Office mailed a Notice of Non-Compliant Amendment on January 5, 2005. Applicants filed a proper reply on January 18, 2005, and were assessed delay of ninety-eight (98) days pursuant to 37 C.F.R. 1.704(c)(7). The Office has stated that:

> Section 1.704(c)(7) establishes submission of a reply having an omission (1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 1.135(c) and await and process the applicant's reply to the action under 1.135(c) before the initial reply (as corrected) can be treated on its merits.[2]

The correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (87 days of PTO delay, reduced by 98 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded to the Office of Patent Publication to complete the issuance process for the patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

---

[2] Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

COPY MAILED

APR 18 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuhiro Funahashi et al :
Application No. 10/420,466 :
Filed: April 18, 2003 :
Attorney Docket No. 2003946-0045 :

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 December 5, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[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

COPY MAILED
DEC 22 2006
OFFICE OF PETITIONS

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of :
Yasuhiro Funahashi, et al. :
Application No.: 10/420,466 : ON PETITION
Filed: April 18, 2003 :
Attorney Docket No.: 2003946-0045 :

This is a decision on the petition, filed December 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 18, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1625 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

COPY MAILED
AUG 05 2008

In re Patent No. 7,253,286	:	
Issue Date: August 7, 2007	:	
Application No. 10/420,466	:	ON PETITION
Filed: April 18, 2003	:	
Attorney Docket No. 2003946-0045	:	

This is a decision on the petition filed December 21, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee to 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 Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

COPY MAILED

JAN 06 2006

OFFICE OF PETITIONS

In re Patent No. 6,918,489	:	
Issue Date: July 19, 2005	:	
Application No. 10/420,519	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket Number: RANPP0350USA	:	

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 29, 2005.

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.33d 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 and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

COPY MAILED
SEP 14 2006
OFFICE OF PETITIONS

In re Application of :
Stephen Ho et al. :
Application No. 10/420,528 : ON PETITION
Filed: April 22, 2003 :
Attorney Docket No. 02004/05UTL :

This is a decision on the petition filed February 15, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on June 3, 2005, for failure to file a timely response to a Restriction Requirement mailed May 2, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed November 18, 2005.

The petition fee in the amount of $750.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed February 15, 2006 will be referred to Technology Center 3751 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael H. Walter	:	
Application No. 10/420,530	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. 1600.001US1	:	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 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lindberg & Woessner, PA has been revoked by the assignee of the patent application on May 18, 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: PHILLIP M. GOLDMAN
FREDRIKSON & BYRON, P.
4000 PILLSBURY CENTER
200 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
J. T. Vaughan, Jr. et al.	:	
Application No. 10/420,541	:	DECISION ON PETITION
Filed: April 21, 2003	:	TO WITHDRAW
Attorney Docket No. 1288.1108101	:	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 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, PA has been revoked by the assignee of the patent application on June 20, 20007. 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: GLENN M. SEAGER
CROMPTON SEAGER TUFTE, LLP
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: John Thomas Vaughan JR.	: DECISION ON REQUEST FOR
Patent Number	: 7598739	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/420,541	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAR 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard C. Eden	:	
Application No. 10/420,545	:	DECISION GRANTING PETITION
Filed: April 17, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 42P18467D	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File MISSING PARTS OF NONPROVISIONAL APPLICATION of June 17, 2003, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The change of address submitted with the instant petition is not signed by an attorney of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

MARK WATSON
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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: WeiMin Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7624415	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/420,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1388** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

THOMAS R. STIEBEL, JR.
MAYER, BROWN, ROWE & MAW
P O BOX 2828
CHICAGO, IL 60690-2828

COPY MAILED

SEP 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Meir Bialer et al :
Application No. 10/420,560 :
Filed: April 22, 2003 :
Attorney Docket No. 03125050 :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed March 23, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

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 the prior-filed application.

The instant pending nonprovisional application was filed on April 22, 2003, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii), reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, 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 the undersigned at (703) 305-8680. 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 AU 1621 for appropriate action on the amendment filed March 23, 2004, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas R. Stiebel, Jr.
Mayer, Brown, Rowe & Maw
P.O. Box 2828
Chicago IL 60690-2828

COPY MAILED

SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Bialer et al.	:	
Application No. 10/420,560	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No.: 03125050	:	
	:	

This is a decision on the petition under 37 CFR 1.55 (a), filed May 20, 2005, requesting acceptance of late entry of priority claim and/or priority paper and new declaration. This petition is being treated under 37 CFR 1.55(c).

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55 (c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. §119(a)-(d) must be accompanied by:

(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 filing date and must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on oath or declaration;

(3) the surcharge as set forth in 37 CFR1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant nonprovisional application, was filed after November 29, 2000 and did not include a proper 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. Therefore, 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).

The above-identified application was filed on April 22, 2003 which is later than November 29, 2000. Intermediate PCT Application No. PCT/IL99/00197 was filed April 12, 1999, within twelve months of the filing date of April 16, 1998, the filing date of the foreign application to which benefit is now being claimed. On May 20, 2005, 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 in the amount of $1370.00 will be charged to deposit account no. 13-0019. 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 of priority under 35 USC 119(a) through (d) is **granted**.

The Office also acknowledges receipt of the certified copy of the foreign application submitted with the petition.

A Corrected Filing Receipt which reflects the above-noted foreign application accompanies this decision on petition.

Telephone inquiries related to this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks

Frances Hicks

Petitions Examiner

Office of Petitions

enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas R. Stiebel, Jr.
Mayer, Brown, Rowe & Maw
P.O. Box 2828
Chicago IL 60690-2828

MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Meir Bialer et al.	:	
Application No. 10/420,560	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 03125050	:	

This is a notice regarding your request filed May 26, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Denise E. Boylin) was ever given a power of attorney to act on behalf of inventor Meir Bialer, Ofer Spigelstein, and Boris Yagen, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b).

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 the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Denise E. Boylin
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

COPY MAILED

FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:
Rolf Freimann	:
Application No. 10/420,573	: DECISION GRANTING PETITION
Filed: April 22, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 89780	:

This is a decision on the petition, filed February 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\420573.wpd

---

[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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Anna Catania	:	
Application No. 10/420,578	:	DECISION ON PETITION
Filed: April 21, 2003	:	TO WITHDRAW
Attorney Docket No. 54275.8005.US01	:	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 31, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph P. Hamilton and those practitioners associated with customer number 34055 have been revoked by the assignee of the patent application on March 28, 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 first below-listed address until otherwise properly notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

for David Bucci
Petitions Examiner
Office of Petitions

cc: DYKEMA GOSSETT PLLC
10 S. Wacker dr., ste. 2300
Chicago, IL 60606

cc: Lyon & Lyon LLP
Suite 4700
633 W. Fifth Street
Los Angeles, CA 90071

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DYKEMA GOSSETT PLLC
10 S. WACKER DR., STE. 2300
CHICAGO IL 60606

COPY MAILED

FEB 15 2008

OFFICE OF PETITIONS

In re Application of

CATANIA, Anna P. et al.
Application No. 10/420,578
Filed: April 21, 2003
Attorney Docket No. **54275.8005.US01**

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 13, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 17, 2007.

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 Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL WISE**
PERKINS COIE
162026TH STREET
SIXTH FLOOR
SANTA MONICA, CA 90404-4013

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED

MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of
Payne, et al.
Application No. 10/420,587
Filed: April 22, 2003
Attorney Docket No. CL 1998 USNA
For: PROMOTER AND PLASMID SYSTEM FOR GENETIC ENGINEERING

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed June 18, 2003, which set an extendable two month period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on August 19, 2003. A Notice of Abandonment was mailed on September 1, 2004.

Petitioners have submitted an executed declaration and late declaration surcharge, the petition fee, and an acceptable statement regarding the unintentional nature of the delay in replying to the June 18, 2003 Notice.[1]

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) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1]Pursuant to petitioners' authorization, deposit account no. 04-1928 will be charged the $130.00 late declaration surcharge and the $1,370.00 petition to revive fee.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100203

DATE : February 03, 2010

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction on Patent No.: 6,944,632

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The request to add inventors is approved. In addition to the current inventor "Michael Stern", please add inventors:

William L. Mince

Daniel E. Kyte

as stated in the Request to Correct Inventorship.

/CHARLES RONES/
Supervisory Patent Examiner.Art Unit 2164

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100203

DATE : February 03, 2010

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction on Patent No.: 7,069,274

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The request to add inventors is approved. In addition to the current inventor "Michael Stern", please add inventors:

William L. Mince

Daniel E. Kyte

as stated in the Request to Correct Inventorship.

/CHARLES RONES/
Supervisory Patent Examiner.Art Unit 2164

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

COPY MAILED

MAR 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Mou-shiung Lin	:	
Application No. 10/420,596	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. MSLIN98-004CB	:	

This is a decision on the petition, filed March 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2825 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

HOWARD S. REITER
HOSMER & REITER
158 PROSPECT HILL
NEW MILFORD, CT 06776

COPY MAILED

NOV 15 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Carine O. R. Elen :
Application No. 10/420,597 :
Filed: April 22, 2003 :
Attorney Docket No. ELEN/2000/2002 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2004, to revive the above-identified application.

The petition is **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.

Petitioner is advised that as of October 1, 2004, the Petition fee for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is $685.00 for a small entity. The fee for the statutory basic filing fee is $395.00 and the surcharge for late filing of oath or declaration is $65.00. Petitioner remitted $745.00 for the petition fee, the basic filing fee, and the surcharge fee. Accordingly, the fee deficiency of $30 is due upon the filing of the "renewed petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer 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) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWARD S. REITER
HOSMER & REITER
158 PROSPECT HILL
NEW MILFORD, CT 06776

COPY MAILED

APR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Carine O. R. Elen	:	
Application No. 10/420,597	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. ELEN/2000/2002	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

COPY MAILED

OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Price :
Application No. 10/420,602 : ON PETITION
Filed: April 22, 2003 :
Attorney Docket No. HO-P01825US2 :
For: ELECTRONIC FLIGHT INSTRUMENT DISPLAYS

This is a decision on the petition under 37 CFR 1.137(b), filed on June 28, 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 October 28, 2003, which set a period for reply of three (3) months. No timely extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on January 29, 2004. A Notice of Abandonment was mailed on June 24, 2004.

Applicant has submitted a proper reply in the form of an amendment, an acceptable statement of the unintentional nature of the delay in responding to the October 28, 2003 non-final Office action, and the petition fee.

The petition is **GRANTED**.

Regarding finances, deposit account no. 06-2375 was properly charged the $1,330.00 fee associated with filing a petition to revive under 37 CFR 1.137(b). 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 $950.00 extension of time submitted with the petition on June 28, 2004 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

After the mailing of this decision the application will be forwarded to Technology Center 2600 for consideration of the amendment filed on June 28, 2004.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

FEB 17 2004

Technology Center 2100

Paper No. 8

McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

In re Application of: OREN DOBRONSKY Application No.: 10/420,625 Filed: April 22, 2003 For: **SYSTEM AND METHOD FOR CUSTOMIZING ELECTRONIC MESSAGES**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed January 29, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII), which requests the Accelerated Examination of the above-identified application.

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 (emphasis added).

Petitioner submits one copy of each of the references most closely related to the subject matter encompassed by the claims, and a statement that a search has been made, and provides a list of the field of search by class and subclass. Petitioner states that all the claims are directed to a single invention, and will make an election without traverse. Petitioner also provides a detailed discussion pointing out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Since Petitioner's submission filed January 29, 2004 meets all of the requirements set forth in M.P.E.P. §708.02(VIII), the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.

Bot LeDynh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID R PRESTON & ASSOCIATES APC
12625 HIGH BLUFF DRIVE
SUITE 205
SAN DIEGO, CA 92130

COPY MAILED
MAY 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Bo Cao	:	
Application No. 10/420,643	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. SBT-00101.P.1.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). In addition, the stated reason for the request is "[I]rreconcilable difference." This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40.

This application is being referred to Technology Center AU 1634.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
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

Morgan, Lewis & Bockius, LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306

COPY MAILED

JUL 11 2008

OFFICE OF PETITIONS

In re Application of
Edward R. Hyde
Application No. 10/420,648
Filed: April 21, 2003
Attorney Docket No. 061115-0014US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys were not appointed by a customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request to withdraw. If this firm would like to receive future correspondence regarding this application, the proper power of documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Edward R. Hyde, Jr.
30 Putnam Park Road
Redding, CT 06896

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morgan, Lewis & Bockius, LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306

COPY MAILED

AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Edward R. Hyde	:	
Application No. 10/420,648	:	DECISION ON PETITION
Filed: April 21, 2003	:	TO WITHDRAW
Attorney Docket No. 061115-0014US	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 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 Thomas Kohler on behalf of all attorneys/agents associated with customer number 24341. All attorneys/agents associated with customer number 24341 have been withdrawn.

The correspondence address has been changed and is copied below.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Edward R. Hyde, Jr.
30 Putnam Park Road
Redding, CT 06896

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
10/420,648	04/21/2003	Edward R. Hyde	061115-0014US

CONFIRMATION NO. 3529

POWER OF ATTORNEY NOTICE

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

OC000000031544069

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/16/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVE.
SUITE 360
MISSION VIEJO CA 92691

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Patent No. 6,961,698	:	
Issue Date: November 01, 2005	:	
Application No. 10/420,654	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No. **01CON344P-DIV**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 18, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on November 01, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6826412
Issue Date: November 30,2004
Application No. 10420679
Filed: April 22,2003
Attorney Docket No. PHGB000052

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
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

MAILED
FROM DIRECTORS OFFICE

JAN 12 2006

TECHNOLOGY CENTER 3600

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
ALEXANDRIA, VA 22313-1404

In re Application of
WAI MING LAU
Application No. 10/420,690
Filed: April 23, 2003

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: DIVIDER FOR CD RACK

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on August 5, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt date stamped by OIPE on April 21, 2005 .

☐ USPTO receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/bkg: 10/18/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

10-420779

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:10/24/05

DATE : October 24, 2005

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 10/420779

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: David Nelms **Art Unit** 2818

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,753,548 B2

DATED : June 22, 2004

INVENTOR(S) : Tetsuya OGAWA, et al.

It is certified that error appears in the above-identified patent and that said Letter Patent is hereby corrected as shown below:

Column 16, line 54, change "3 mJ/cm^2 μm" to --3mJ/cm^2/μm--.

OCT 13 2004

WDC99 985674-1.057454.0929

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PAUL A. GUSS
PAUL A. GUSS ATTORNEY AT LAW
775 S 23RD ST FIRST FLOOR SUITE 2
ARLINGTON, VA 22202

COPY MAILED

SEP 22 2005

OFFICE OF PETITIONS

In re Application of:	:	
Yoshihiro Fukano	:	
Application No. 10/420,784	:	
Filed: April 23, 2003	:	ON PETITION
Attorney Docket No.:	:	
CS-14-030424.2	:	

This is a decision on the petition under 37 CFR 1.137(a), filed September 6, 2005, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Issue Fee Due, mailed March 1, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the above-identified application became abandoned June 2, 2005. A Notice of Abandonment was mailed on September 2, 2005.

Applicant's Assertion

Applicant avers non-receipt of the Notice of Allowance and Issue Fee Due. In support, Applicant has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Applicant has demonstrated by a preponderance of the evidence that the Notice of Allowance and Issue Fee Due was not received.

The Notice of Abandonment is hereby withdrawn. A refund of the petition fee has been scheduled via treasury check.

The application file is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/420,791	04/22/2003	Michael A. Pfister	112784	5311

21002 7590 08/19/2005

WILLIAM NITKIN
1320 CENTRE STREET
SUITE 300
NEWTON, MA 02459

EXAMINER
CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/420-291			

EXAMINER

ART UNIT	PAPER
	81705

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Stephen J. Castellano
Primary Examiner
Art Unit: 3727

UNITED STATES 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 PFISTER ET AL.	:	
Appl No.: 10/420,791	:	**DECISION GRANTING**
Filed: April 22, 2003	:	**PETITION**
For: Multi-use Bucket	:	*37 CFR 1.48*
	:	
	:	
	:	
	:	

This is a decision on the petition filed February 28, 2005 to correct inventorship under 37 CFR 1.48.

The petition is granted.

The patented file is being forwarded to Issue Branch.

Stephen J. Castellano
Primary Examiner
Art Unit 3727
Technology Center 3700

WILLIAM NITKIN
1320 CENTRE STREET
SUITE 300
NEWTON, MA 02459

UNITED STATES 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

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED
OCT 30 2003
OFFICE OF PETITIONS

In re Application of	:
Dale, et al.	: DECISION GRANTING
Application No. 10/420,805	: STATUS UNDER 37 CFR 1.47(a)
Filed: April 23, 2003	:
Atty. Dkt. No.: 1875.2860002	:
For: MODIFIED UPSTREAM CHANNEL	:
DESCRIPTOR MESSAGES FOR DOCSIS-	:
BASED BROADBAND COMMUNICATION	:
SYSTEMS	:

This is a decision in response to a petition under 37 CFR 1.47(a) filed April 23, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors Mark Dale and David Hartman have 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MARK DALE
26962 WILLOW TREE LANE
LAGUNA HILLS, CA 92653

In re Application of	:	
Dale, et al.	:	
Application No.: 10/420,805	:	LETTER
Filed: April 23, 2003	:	
Atty. Dkt. No.: 1875.2860002	:	
For: MODIFIED UPSTREAM CHANNEL	:	
DESCRIPTOR MESSAGES FOR DOCSIS-	:	
BASED BROADBAND COMMUNICATION	:	
SYSTEMS	:	

COPY MAILED
OCT 3 0 2003
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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.

BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

APR 0 6 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shigeki Nomura et al :
Application No. 10/420,815 :
Filed: April 23, 2003 :
Attorney Docket No. 011900-325 :

This is a decision on the petition, filed April 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1775 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

Einar Stole
Milbank, Tweed, Hadley & McCloy LLP
Suite 1100
1825 Eye Street, NW
Washington DC 20006

COPY MAILED
AUG 0 8 2003
OFFICE OF PETITIONS

In re Application of	:	
Gottfried Prechtl	:	
Application No. 10/420,822	:	DECISION GRANTING
Filed: April 23, 2003	:	PETITION
Attorney Docket No. 37666.00100	:	
Title: SAFETY DEVICE FOR FIREARMS WITH A FIRING PIN LOCK	:	

This is a decision on the "Petition under 37 C.F.R. §1.181", filed July 8, 2003, which is properly treated as a petition under 37 CFR §1.53(b), requesting that the above identified application be accorded a filing date of April 23, 2003, with Figures one through four (1-4) as part of the original disclosure.

On April 23, 2003, the above-identified application was filed. On June 11, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had not been accorded a filing date, and advising applicant that one would be accorded when drawings were filed. The Notice further indicated that an executed oath or declaration and an abstract would be required.

In response, on July 3, 2003, applicants filed the present petition. The petition is further accompanied by a copy of applicants' postcard receipt acknowledging receipt of three (3) sheets of drawings in the United States Patent and Trademark Office (Office) on April 23, 2003, containing Figures one through four (1-4). Applicants request that both Figures one through

four (1-4) and the application be accorded a filing date of April 23, 2003.

Upon review of the record, the three sheets of drawings containing Figures one through four (1-4) have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 23, 2003, included these three (3) sheets of drawings, and these sheets were subsequently misplaced in the Office. Therefore, the application, including the three sheets of drawings containing Figures one through four (1-4), was complete on filing and entitled to a filing date of April 23, 2003.

Accordingly, the petition is **GRANTED**.

The Notice mailed June 11, 2003 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 23, 2003, using the original application papers filed on that date, as well as the three (3) sheets of drawings containing Figures one through four (1-4) submitted on July 3, 2003.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory 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

KENYON & KENYON
1500 K STREET, N.W.
WASHINGTON, DC 20005

COPY MAILED

FEB 29 2008

OFFICE OF PETITIONS

In re Application of	:
Spartiotis et al.	:
Application No. 10/420,834	: DECISION ON PETITIONS
Filed: April 23, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 12763-47302	: AND UNDER 37 CFR 1.55(C)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed January 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and a previously-filed declaration, respectively.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on April 23, 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).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on April 23, 2003, which is after November 29, 2000, and the intermediate application was filed within 12 months of November 5, 1998, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on filing on April 23, 2003 also identifies the foreign application for which priority is claimed.

Pursuant to petitioner's authorization, the $1410.00 surcharge was charged to petitioner's deposit account. 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 application, and the foreign priority claim, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 119(a)-(d) 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2884 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment and declaration, respectively.

Liana Walsh

Liana Walsh
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
10/420,834	04/23/2003	2884	582	2338/47302	43	2

CONFIRMATION NO. 4338

CORRECTED FILING RECEIPT

KENYON & KENYON
1500 K Street, N.W.
Washington, DC 20005

OC000000028515619

Date Mailed: 02/27/2008

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)

Konstantinos Evangelos Spartiotis, Espoo, FINLAND;
Stefan Jurthe, Espoo, FINLAND;
Markku Tapio Eraluoto, Espoo, FINLAND;

Assignment For Published Patent Application

Simage, OY, Espoo, FINLAND

Power of Attorney: The patent practitioners associated with Customer Number 23838

Domestic Priority data as claimed by applicant

This application is a CON of 09/209,829 12/11/1998 ABN

Foreign Applications

UNITED KINGDOM 9824276.1 11/05/1998

If Required, Foreign Filing License Granted: 07/10/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/420,834**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Imaging device

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA,VA 22314

COPY MAILED
DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
KAWAI, et al.	:	
Application No. 10/420,854	:	DECISION GRANTING PETITION
Filed: April 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 236937US3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 30, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 19, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VALENTINE A. COTTRILL
SUITE 1020 50 QUEEN STREET NORTH
KITCHENER ON N2H6M-2 CA CANADA

COPY MAILED

MAY 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Erick Girouard :
Application No. 10/420,855 :
Filed: April 23, 2003 :
Attorney Docket No. K8000244US :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 16, 2003, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/374,496, filed April 23, 2002.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Petitioner has submitted on December 16, 2003, an Application Data Sheet to include prior-filed provisional Application No. 60/374,496, filed April 23, 2002.

The instant pending nonprovisional application was filed on April 27, 2001, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/374,496 in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above and the paper filed April 12, 2004, the $1330 petition fee is unnecessary and will be refunded to petitioner's deposit account no. 50-1613.

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.

The examiner of Technology Center AU 3753 will consider the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of prior-filed provisional Application No. 60/374,496, filed on April 23, 2002.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. ALAIN M. LECLERC
GOUDREAU GAGE DUBUC
STOCK EXCHANGE TOWER
SUITE 3400, P O BOX 242
800 PLACE-VICTORIA
MONTREAL, QUEBEC, CANADA H4Z 1E9

COPY MAILED

APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Julio Oswaldo Ladron de Guevara	:	
Application No. 10/420,860	:	DECISION ON PETITION
Filed: April 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TV/13577.4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2004. Accordingly, the date of abandonment of this application is January 7, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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 lacks item (1).

35 U.S.C. § 41(a)(7) and 151 each requires payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application (or a Request for Continued Examination (RCE, as in this case) without payment of the issue fee is not an acceptable reply in an application abandoned for failure to timely pay the issue fee. *See* MPEP § 711.03(c)(II)(A)(1). Accordingly, before revival of the application can be effected, **the issue fee, as well as the publication fee, must be paid**. Petitioner should note that, if the application is again allowed, the issue fee can be applied towards the new Notice of Allowance.

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

Any questions 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. ALAIN M. LECLERC
GOUDREAU GAGE DUBUC
STOCK EXCHANGE TOWER
SUITE 3400, P O BOX 242
800 PLACE-VICTORIA
MONTREAL, QUEBEC, CANADA H4Z 1E9

COPY MAILED

OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Julio Oswaldo Ladron de Guevara	:	
Application No. 10/420,860	:	DECISION ON PETITION
Filed: April 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TV/13577.4	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 18, 2005, 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 January 6, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2004. Accordingly, the date of abandonment of this application is January 7, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee and $300 publication fee; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Petitioner is advised that the issue fee paid 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]

---

[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, along with any balance due, to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

Petitioner has, on January 11, 2005, filed a Request for Continued Examination (RCE) and an Information Disclosure Statement. Accordingly, this matter is withdrawn from issue and being referred to Technology Center AU 3636 for appropriate processing of the RCE and consideration of the IDS.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
(571) 272-3218

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED
DEC 18 2003
OFFICE OF PETITIONS

In re Application of
Mark Dale, Dorothy D. Lin, Alan Gin, Jen-Chieh Chien, David Hartman, Rocco J. Brescia, Ravi C. Bhaskaran, and Adel F. Fanous
Application No. 10/420,905
Filed: April 23, 2003
Attorney Docket No. 1875.2850001
Title: QUEUE DEPTH EXTENDED HEADERS FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 23, 2003.

On April 23, 2003, the application was deposited, identifying Mark Dale, Dorothy D. Lin, Alan Gin, Jen-Chieh Chien, David Hartman, Rocco J. Brescia, Ravi C. Bhaskaran, and Adel F. Fanous as joint inventors. The application was deposited without a fully executed oath or declaration[2]. On June 27, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date

[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 inventors Dale and Hartman did not execute the declaration.

Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00.

On October 15, 2003, petitioner submitted via facsimile transmittal a copy of the non-executed declaration, the instant petition, and a postcard receipt indicating that the instant petition was included on filing on April 23, 2003. Although the petition has not been located in the application file, the evidence is convincing that the petition was received on April 23, 2003, and subsequently misplaced by the Office. As such, the Notice was mailed in error, and is hereby **WITHDRAWN**.

The petitioner has met requirements (1), (3) and (5) above. Requirement (2) does not apply, as it has been determined that the petition was included on filing.

The fourth requirement has not been met for three reasons. The petitioner has submitted a statement of facts which sets forth that on February 26, 2003, a secretary at the petitioner's law firm recorded a telephone memo which indicates that she spoke with both of the non-signing inventors, and each of them refused to review and/or sign any documents. This statement of facts shows that the non-signing inventors did not communicate this to the declarant directly, but rather he heard the refusal though an intermediary, a secretary at the firm, Ms. Delain Crooks.

Furthermore, the statement of facts sets forth that a "first draft" and a "final draft" application were sent to each of the non-signing inventors at their last known addresses, and that no response has been received.

Regarding the telephone memos, where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

Statements by a party not present when an express oral refusal was made will not be accepted.

Regarding the final drafts of the applications which were sent to the non-signing inventors, the statement of facts does not reveal who mailed these packages to the non-signing inventors. This is not acceptable, as the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted.

Put another way, where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Furthermore, the petitioner has not established that the applications which were mailed to the non-signing inventors were complete copies of the application, and one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the

inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

For these reasons, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Second Renewed Petition Under 37 C.F.R. §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 C.F.R. §1.136(a).

On renewed petition, petitioner should submit a statement(s) from one having firsthand knowledge of the oral refusal and the mailings. It is recommended that petitioner include copies of the letters which were sent to the non-signing inventors.

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6]. **Please note that the later two have changed, as of December 1, 2003.**

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

6 (703) 872-9306.

UNITED STATES 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

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED
FEB 27 2004
OFFICE OF PETITIONS

In re Application of
Mark Dale, Dorothy D. Lin, Alan Gin, Jen-Chieh Chien, David Hartman, Rocco J. Brescia, Ravi C. Bhaskaran, and Adel F. Fanous
Application No. 10/420,905
Filed: April 23, 2003
Attorney Docket No. 1875.2850001
Title: QUEUE DEPTH EXTENDED HEADERS FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed February 17, 2004.

On April 23, 2003, the application was deposited, identifying Mark Dale, Dorothy D. Lin, Alan Gin, Jen-Chieh Chien, David Hartman, Rocco J. Brescia, Ravi C. Bhaskaran, and Adel F. Fanous as joint inventors. The application was deposited without a fully executed oath or declaration[2]. On June 27, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date

[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 inventors Dale and Hartman did not execute the declaration.

Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00.

The original petition was submitted on April 23, 2003, and was dismissed via the mailing of a decision on December 18, 2003, as the statements pertaining to the refusals and the mailings of the applications were not made by one having firsthand knowledge of the events.

With the renewed petition, Petitioner has set forth that he himself spoke with each of the non-signing inventors, and that "we mailed a final draft application via federal express[3]" to each of the non-signing inventors.

As the Petitioner represented these statements to be made by one having firsthand knowledge of the underlying events, the Office must interpret the use of the word "we" to be an affirmative representation by the declarant that Theodore A. Wood personally delivered these two final drafts of the application to a Federal Express representative/drop box, and did not have the matter handled by an intermediary or an assistant. Petitioner must notify the Office if this is not a correct interpretation of the word "we," as it would result in the vacating of this decision on renewed petition coupled with a refusal to accord Rule 47 status to this 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 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 the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Questions pertaining to this application should be directed towards the Office of Initial Patent Examination at (703) 308-1202.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

3 Statement of facts, paragraphs 12 and 14.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Dale et al. :
Application No. 10/420,905 : DECISION ON PETITION
Filed: 04/23/2003 :
Attorney Docket No. 1875.2850001 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 9, 2007, to revive the above-identified application.

On September 8, 2006, the Office mailed a final Office action, which set a three (3) month shortened statutory period for reply. Petitioner obtained an extension of time for response within the third month. Accordingly, the application became abandoned on March 9, 2007, for failure to file a timely and proper response.

Petitioner submitted an amendment in response to the final Office action. Upon reviewing the amendment, the examiner determined that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision. Additionally, petitioner filed a notice of appeal and fee.

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 a notice of appeal and paid the requisite fees. Accordingly, the petition is granted. **Petitioner must file an appeal brief within TWO MONTH from the mailing date of this decision.**

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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and 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 present petition.

This matter is being referred to Technology Center Art Unit 2618.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 3

COPY MAILED

JUL 21 2003

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Dale, et al.
Application No.: 10/420,909
Filed: April 23, 2003
Attorney Docket No.: 1875.2840001
For: EXPLICIT CONGESTION NOTIFICATION FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 23, 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 23, 2003 with an oath or declaration signed by 6 of 8 joint inventors and a Rule 47 petition. The statement of facts by Attorney Jeffrey T. Helvey that accompanies the petition states that non-signing joint inventor Mark Dale and David Hartman David each received a copy of the draft application and orally refused to sign their respective copy of the declaration. Final drafts were sent to the inventors and no response was received.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alteration to Inventor Chien's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the

oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiency or inaccuracy relates to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Chien can correct his information on a supplemental declaration identifying the entire inventive entity but signed only by him.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON DC 20005-3934

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

In re Application of
Dale, et al.
Application No.: 10/420,909
Filed: April 23, 2003
Attorney Docket No.: 1875.2840001
For: EXPLICIT CONGESTION NOTIFICATION FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 22, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors, Mark Dale and David Hartman, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts by Attorney Jeffrey T. Helvey establishes that non-signing joint inventors Mark Dale and David Hartman each received a copy of the draft application and orally refused to sign their respective copy of the declaration. Final drafts were sent to the inventors and no response was received. 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 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 forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DAVID HARTMAN
26861 ANADALE DRIVE
LAGUNA HILLS CA 92653

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Dale, et al.
Application No.: 10/420,909
Filed: April 23, 2003
Attorney Docket No.: 1875.2840001
For: EXPLICIT CONGESTION NOTIFICATION FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

Dear Mr. Hartman:

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: STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MARK DALE
26962 WILLOW TREE LANE
LAGUNA HILLS CA 92653

COPY MAILED

OCT 02 2003

OFFICE OF PETITIONS

In re Application of
Dale, et al.
Application No.: 10/420,909
Filed: April 23, 2003
Attorney Docket No.: 1875.2840001
For: EXPLICIT CONGESTION NOTIFICATION FOR DOCSIS BASED BROADBAND COMMUNICATION SYSTEMS

LETTER

Dear Mr. Dale:

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: STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED
AUG 13 2008

In re Patent No. 7,308,123 Application No. 10/420,918 Filing Date: April 23, 2003 Issue Date: December 11, 2007 Attorney Docket No. 015075-0318033	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 14, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,308,123 on December 11, 2007. Petitioner contends, however, that the patent was never received.

In view of the facts and evidence set forth in the petition, it is concluded that the original Letters of Patent was never received. The Office of Data Management is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

COPY MAILED
MAR 1 8 2005
OFFICE OF PETITIONS

FAX RECEIVED
MAR 1 8 2005
CANCELLED
OFFICE OF PETITIONS

In re Patent no. 6,852,265
Issued: February 8, 2005
Application No. 10/420,921
Filed: April 23, 2003
Attorney Docket No. 2107.1690001/TUM/RLP
For: METHOD AND APPARATUS FOR DISTRIBUTING MELT IN A MULTI-LEVEL STACK MOLD

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 16, 2004, to correct the names of the inventors in the above-identified application.

The petition under 37 CFR 1.182 is DISMISSED because the Office of Initial Patent Examination addressed the petition prior to this application's issuance as patent no. 6,852,265 on February 8, 2005.

The names of inventors have already been changed to:

George Olaru
Denis Babin
Paul Matysek
Neil Dewar

A corrected filing receipt was mailed on January 7, 2005.

This patented file will be returned to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

KAREN LEE ORZECHOWSKI
LINIAK BERENATO & WHITE LLC
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

AUG 08 2005

OFFICE OF PETITIONS

In re Application of :
Ragnhild Brandt, et al. :
Application No. 10/420,931 : ON PETITION
Filed: April 23, 2003 :
Attorney Docket No. 09100.001A :

This is a decision in response to the petition under 37 CFR 1.137(b), filed May 12, 2005, to revive the above-identified application.

The petition is **DISMISSED**. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to a Notice to File Missing Parts of Nonprovisional Application mailed August 1, 2003. A Notice Abandonment was mailed on August 31, 2004. On May 12, 2005, the present petition was filed, along with a Revocation of Power of Attorney and Appointment of New Attorney.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The present petition does not include the required reply. Therefore, the petition is not found to comply with the requirements of 37 CFR 1.137(b).

The Revocation and Power Attorney filed May 12, 2005 is **not** acceptable, since it appears that the Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

been received. However, in accordance with 37 CFR 1.34(a), the signature of Richard E. Fichter 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.

At present, the request to change the correspondence address filed May 12, 2005 will not be processed. If Mr. Fichter 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.

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)," and included the required reply. For applicant's convenience, a copy of the Notice mailed August 1, 2003, in enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure

cc: RICHARD E. FICHTER
BACON & THOMAS
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

COPY MAILED

JAN 1 8 2006

OFFICE OF PETITIONS

In re Application of
Ragnhild Brandt, et al.
Application No. 10/420,931
Filed: April 23, 2003
Attorney Docket No. BRAN3002C/REF

ON PETITION

This is a decision on the renewed petition, filed January 9, 2006, under the provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Missing Parts mailed August 1, 2003. The notice required the basic filing fee, additional claim fees and the requisite surcharge under 37 CFR 1.16(e). On August 31, 2004, a Notice of Abandonment was mailed. On May 12, 2005, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 8, 2005. In response, on January 9, 2006, the present petition was filed, as well as the basic filing fee, additional claim fees, the requisite surcharge and an appropriate petition for extension of time. Accordingly, the renewed petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

COPY MAILED

APR 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,100,831	:	
Issued: September 5, 2006	:	
Application No. 10/420,934	:	ON PETITION
Filed: April 23 2003	:	
Attorney Docket No. Q75245	:	

This is a decision on the petition under 37 CFR 1.182, filed April 10, 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.

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

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 Niomi Farmer at (703) 308-9250, ext. 129.

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: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
McLEAN, VA 22102

COPY MAILED
MAY 30 2006
OFFICE OF PETITIONS

In re Application of :
Takashi Noma et al :
Application No. 10/420,943 : DECISION GRANTING PETITION
Filed: April 23, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 492322011400 :

This is a decision on the petition, filed May 25, 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 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2826 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\may9\420943.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090414

DATE : April 14, 2009

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7312521

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:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WONG CABELLO LUTSCH
RUTHERFORD & BRUCCULERI LLP
20333 SH 249, SUITE 600
HOUSTON, TX 77070

COPY MAILED

MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of :
William C. Collette et al :
Application No. 10/420,953 : ON PETITION
Filed: April 22, 2003 :
Attorney Docket No. 2120-015.01 :

This is a decision on the petition filed January 8, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 7, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 8, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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 the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Louis H. Iselin
P.O. Box 1906
Cypress, TX 77410-1903

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/420,954 received on 5/27/03 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

Townsend & Townsend & Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, California 94111-3834

MAILED

OCT 01 2004

Technology Center 2100

In re Application of: Kenichi Miyata et al.	)	
Application No. 10/420,972	)	**DECISION ON PETITION**
Filed: April 21, 2003	)	**FOR ACCELERATED**
For: INFORMATION PROCESSING	)	**EXAMINATION UNDER**
SYSTEM	)	**M.P.E.P. §708.02(VIII)**

This is a decision on the petition filed on August 23, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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. 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 combined submissions meet 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

UNITED STATES 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

SEP 14 2009

OFFICE OF PETITIONS

In re Patent No. 6,959,751 :
Issue Date: November 1, 2005 :
Application No. 10/420,987 :
Filed: April 22, 2003 :
Attorney Docket No. 09680.0227US01 :

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has 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.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Jane Massey Licata
Licata & Tyrrell P.C.
66 E. Main Street
Marlton NJ 08053

COPY MAILED
SEP 2 2 2003
OFFICE OF PETITIONS

In re Application of :
Logqin Hu :
Application No. 10/421,000 : DECISION GRANTING PETITION
Filed: April 22, 2003 :
Attorney Docket No. RU-0190 :

This is a decision on the petition filed July 22, 2003, requesting that the above-identified application retain the presently accorded a filing date of May 22, 2003, with page 44 as part of the original disclosure.

On April 22, 2003, the above-identified application was filed. On June 23, 2003, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of April 22, 2003, however, page 44 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on July 22, 2003, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 69 pages of the specification were received on April 22, 2003.

Upon review of the record, page 44 of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited April 22, 2003, included page 44, which was subsequently misplaced by the Office. Therefore, the application, including page 44 of the specification, was complete on filing and entitled to the presently accorded filing date of April 22, 2003.

Accordingly, the petition is granted.

Applicant is advised that the language in the Notice relative to the omitted page 44 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 22, 2003, using the 69 pages of drawings filed April 22, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ETHYL CORPORATION
330 SOUTH FOURTH STREET
RICHMOND VA 23219

COPY MAILED
MAR 16 2007
OFFICE OF PETITIONS

In re Application of	:	
Allen A. Aradi et al	:	
Application No. 10/421,006	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. EP-7554-C2	:	

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 November 7, 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 1714 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ETHYL CORPORATION
330 SOUTH FOURTH STREET
RICHMOND VA 23219

COPY MAILED
AUG 2 6 2008

In re Application of	:	
Aradi, et al.	:	
Application No. 10/421,006	:	DECISION
Filed: 22 April, 2003	:	
Attorney Docket No. EP-7554-C2	:	

This is a decision on the petition filed on 13 November, 2007, supplemented thereafter on 30 July, 2008, seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees due mailed on 13 July, 2007, with reply due under a non-extendable deadline on or before 15 October, 2007.

The application went abandoned by operation of law after midnight 13 October, 2007.

The Office mailed the Notice of Abandonment on 6 November, 2007.

On 13 November, 2007, Petitioner filed the instant petition (with fee), a reply in the form of fees due, and a statement of unintentional delay made by one other than the attorney under whose control the instant application was at the time of abandonment, and thereafter on 30 July, 2008, Petitioner filed a supplementary a statement of unintentional delay signed by the attorney of record.

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]

(Petitioners who are not of record at the time an application goes abandoned and who do not obtain the statement of the person responsible for the application at the time of abandonment (attorney/agent/applicant/assignee) are reminded that their assertion(s) as to the nature of a delay and/or that a delay is unintentional are construed to have been made in concert with the aforementioned duty to inquire and disclose, and must notify the Office if their appreciation of the nature of the delay is one other than unintentional, or if they previously have failed to satisfy their obligation under 37 C.F.R. §10.18(b) to inquire into the underlying facts and circumstances when providing statements to the Office in this matter.)

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 Publications Branch to be processed into a patent in due course.

---

[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).

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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[2]) 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

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: David Kirk	: DECISION ON REQUEST FOR
Patent Number	: 7305014	: RECALCULATION of PATENT
Issue Date	: 12/04/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/421,018	: OF WYETH
Filed	: 04/22/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of
Sano et al.
Application No. 10/421,019
Filed: April 30, 2002
Attorney Docket No.:
10873.481USD1

DECISION
ON PETITION

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application based upon unintentional delay. The petition is properly treated as a petition to withdraw the abandonment of the application under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Corrected Notice of Allowance and Issue Fee Due ("Corrected Notice"), mailed March 31, 2004. The Notice set a non-extendable three (3) month period for reply.

Applicant files the instant petition wherein Applicant avers that a timely reply to the Notice of Allowance and Issue Fee Due, namely, the issue fee, was timely filed in response to the first Notice of Allowance and Issue Fee Due, mailed January 13, 2004. Further to this, Applicant avers that the Corrected Notice did not require any fees to be paid. A review of the Corrected Notice reveals that Applicant is correct; the Corrected Notice did not require Applicant to submit any fees, and appears to have been sent in error.

Accordingly, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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

SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE, NM 87185-0161

COPY MAILED
AUG 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Fleming et al.	:	
Application No. 10/421,025	:	
Filed: April 21, 2003	:	ON PETITION
Attorney Docket Number:	:	
SD6420.1S102184	:	

This is a decision on the Petition to Withdraw Notice of Abandonment, filed June 28, 2005. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed March 23, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on July 23, 2004, however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed July 23, 2004.

No reply having been received, the application became abandoned June 24, 2004. A Notice of Abandonment was mailed on June 16, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant asserts that a timely reply - a Notice of Appeal and fee - was

filed on July 27, 2004. In support of this assertion, Applicant files a copy of Notice of Appeal and extension of time request. The Response includes a Certificate of mailing dated July 27, 2004. Applicant avers that, because the reply was filed within two (2) months of the mailing of the final Office action, the shortened statutory [reply] period expired on the date the advisory action was mailed, July 23, 2004. As such, Applicant's reply, filed July 27, 2004, required a one (1) month extension of time. Applicant states that his deposit account was charged the fee for filing a Notice of Appeal on September 27, 2004.

Analysis

A review of the copy of the Notice of Appeal and Extension of Time request confirms that the Response included a Certificate of Mailing under 37 CFR 1.8. Applicant has also included a statement which attests on a personal knowledge basis to the previous timely mailing of the Response. A review of Office records reveals that the fee for filing a Notice of Appeal was charged to deposit account 19-0131 on July 30, 2004. In accordance with the MPEP 706.07(f), when the examiner [] does not mail an advisory action until after the end of the 3-month period, the shortened statutory period will expire on the date the examiner mails the advisory action and any extension of time fee would be calculated from the mailing date of the advisory action." Accordingly, a one (1) month extension of time was required. Applicant requested a one (1) month extension of time and authorized the fee for a one (1) month extension of time along with the fee for filing a Notice of Appeal; however, the extension of time fee was not charged to Applicant's deposit account.

Conclusion

In view of the foregoing, the holding of abandonment is hereby vacated and the Notice of Abandonment is hereby withdrawn.

No petition fee has been charged and none is due. The fee for a one (1) month extension of time has been charged to deposit account 19-0131.

The application file is being referred to Technology Center Art Unit 3724 for processing of the Notice of Appeal and Appeal Brief in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Wu, Wen-Chang
235 Chung - Ho
Box 8-24
Taipei TW TAIWAN

COPY MAILED

APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Wen-Chang Wu	:	
Application No. 10/421,031	:	ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. AP3011-GVF2BA68	:	

This is a decision on the petition, filed February 10, 2005, to revive the above-identified application under 37 CFR 1.137(b).

The petition is granted.

The application became abandoned for a failure to pay the issue fee on or before January 26, 2005. Receipt is acknowledged of the issue/publication fee on February 10, 2005.

The application is being referred to Publishing Division for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Deborah W. Wenocur,
Patent Agent
4057 Amaranta Ave.
Palo Alto CA 94306

COPY MAILED

JUN 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Tsao et al.	:	DECISION ON
Application No. 10/421,059	:	PETITION
Filed: April 23, 2003	:	
Attorney Docket No. P0338CIP	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed May 11, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed July 27, 2005. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective October 28, 2005. A courtesy Notice of Abandonment was mailed on May 17, 2007.

The instant petition was filed by a Senior Patent Paralegal.

This is improper. As stated in 37 CFR 1.33(b).

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

In view, the petition under § 1.181 is **DISMISSED** without consideration on the merits.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

It is noted that any showing of nonreceipt must establish nonreceipt of the Office action at the correspondence address of record as of the date of mailing of the Office action. The belated change of address filed May 1, 2007, indicates that the failure to receive the Office action could be due to failure to timely advise the Office of a new address. Such would not warrant withdrawal of the holding of abandonment. In the alternative, petitioner may file a petition to revive pursuant to 37 CFR 1.137.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries 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

Paper No.

Deborah W. Wenocur,
Patent Agent
4057 Amaranta Ave.
Palo Alto CA 94306

COPY MAILED

MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Tsao et al.	:	DECISION ON
Application No. 10/421,059	:	PETITION
Filed: April 23, 2003	:	
Attorney Docket No. P0338CIP	:	

This is a decision on the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed November 15, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed July 27, 2005. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective October 28, 2005. A courtesy Notice of Abandonment was mailed on May 17, 2007.

A "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" was filed on May 11, 2007. However, it not filed by a proper party as set forth in 37 CFR 1.33(b). Accordingly, the petition was dismissed without consideration on the merits.

On November 15, 2007, applicants filed the instant petition based on unintentional delay. The petition includes payment of the petition fee, the required reply in the form of an amendment and the required statement of unintentional delay. No terminal

disclaimer is required. The requirements of 37 CFR 1.137(b) have been satisfied.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on November 15, 2007 was submitted subsequent to the maximum extendable period for reply, this fee is unnecessary and is being refunded.

Technology Center AU 3723 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed November 15, 2007.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

10/421/135

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/26/07

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction on Patent No.: 7213643

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:

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
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. 082504

SEP 17 2004

HAYNES AND BOONE, LLP
1000 LOUISIANA, SUITE 4300
HOUSTON, TX 77002

In re Application of:	:	
JURERGEN STEGER	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/421,145	:	
Filed: April 23, 2003	:	
Attorney Docket No.: **29322.72**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 19, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Osha & May L.L.P. filed on July 22, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: OSHA & MAY L.L.P.
1221 MCKINNEY STREET
HOUSTON, TX 77010

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTORS OFFICE
MAR 2 4 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TECHNOLOGY CENTER 3600

Chang-Wen, Tsaur
P.O. Box 166-13
Taipei, Taiwan R.O.C.
Taipei 115
Taiwan

In re:	Chang-Wen	: Decision on Petition to
Serial No.	10/421,165	: Withdraw a Request for
Filed :	April 21, 2003	: Statutory Invention Registration

For: LOWER STOP OF ZIPPER

This is a decision on the petition under 37 CFR 1.294, received on January 4, 2006 for withdrawal of the request for Statutory Invention Registration.

The applicant's petition is GRANTED.

Examiner Brittain allowed the application and a Notice of Allowance was mailed on November 12, 2004.

On December 16, 2004 applicant paid the issue fee and filed a Request for Statutory Invention Registration. The application was subsequently forwarded to Art Unit 3641 for processing of the Request.

On December 8, 2005 Examiner Clement processed the Request and mailed a Notice of Intent to Publish the application as a Statutory Invention Registration.

On January 4, 2006, applicant filed the instant petition requesting withdrawal of the Request.

In that publication has not yet occurred, the petition is hereby GRANTED.

The application will return to Publication Division for processing of the application as a Patent. The examiner to be named on the patent will revert to Examiner Brittain.

Any comments or concerns should be forwarded to Michael J. Carone at (571) 272-6873.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 15 2010

OFFICE OF PETITIONS

HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

In re Patent No. 7,079,303	:	
Issue Date: July 18, 2006	:	
Application No. 10/421,172	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 07783.0053NPUS01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
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

SAMUEL H. DWORETSKY
AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of
Basso et al.
Application No. 10/421,190
Filed: April 23, 2003
Attorney Docket No. 113704 C

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed November 27, 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 February 28, 2008. A Notice of Abandonment was mailed September 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. As such, the change of correspondence address filed October 11, 2008 cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405.

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. 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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Wendy W. Koba
PO Box 556
Springtown, PA 18081

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427

COPY MAILED

FEB 08 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Craig A. Miller et al :
Application No. 10/421,195 :
Filed: April 23, 2003 :
Attorney Docket No. 55752US016 :

This is a decision on the petition, filed February 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3749 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of
Procop
Application No. 10/421,196
Filed: April 23, 2003
Attorney Docket No. CCF-6036NP
For: IDENTIFICATION OF HISTOPLASMA CAPSULATUM USING A PCR ASSAY

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed June 21, 2006, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to reply to the Restriction Requirement, mailed December 1, 2005, which set an extendable one month period for reply. The Office has no record of receiving a reply. The Office contended that this application became abandoned on January 2, 2006. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Petitioner asserts that a reply was timely filed on certificate of mailing date March 30, 2006 and received in the Office on April 6, 2006. In support of this assertion, petitioner has provided a copy of applicant' response that contains a proper certificate of mailing bearing a March 30, 2006 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "Election Transmittal" bears a proper certificate of mailing, dated March 30, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing April 6, 2006 as the date of receipt, affixed thereto. The postcard lists that the filing included an election transmittal (4 pages), an election (2 pages) and a check for $795.00. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on April 6, 2006. MPEP 503. It is noted that the $795.00 check for a three month extension of time was negotiated on April 6, 2006.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment is withdrawn.

Regarding fees, the $130.00 fee submitted with the instant petition is unnecessary and will be refunded to deposit account no. 20-0090.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1637 for the election filed on certificate of mailing date March 30, 2006.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/421,206	04/23/2003	3671	924	206.10010102	7	25	4

CONFIRMATION NO. 5332

CORRECTED FILING RECEIPT

OC000000012670774

26813
MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

Date Mailed: 05/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Garry W. Busboom, Beatrice, NE;
Gary L. Nicholson, Beatrice, NE;

Assignment For Published Patent Application

Exmark Manufacturing Company, Incorporated, Beatrice, NE;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/893,193 06/27/2001 PAT 6,557,331

Foreign Applications

If Required, Foreign Filing License Granted: 07/07/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Operator control system for self-propelled vehicles

Preliminary Class
056

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 10 2005

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

In re Application of LAMB ET AL. Appl. No.: 10/421,207 Filed: April 22, 2003 For: APPARATUS, SYSTEMS AND METHODS FOR LEVITATING AND MOVING OBJECTS	**WITHDRAWAL FROM ISSUE** *37 CFR 1.313*

The above-identified application is withdrawn from issue to permit re-opening of prosecution. See 37 CFR 1.313.

The above-identified application is hereby **withdrawn from issue**.

Subsequent to the mailing of the Notice of Allowability, a new issue was discovered that was believed to pose a significant bearing on the patentability of at least one claim pending in the allowed application. The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries regarding this notice should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684. Telephone inquiries regarding the status of the claims and other examination on the merits issues should be directed to the examiner of record, Frantz Jules, at (571) 272-6681.

Robert J. Oberleitner
Director, Patent Technology Center 3600

SJM: 6/9/05

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. 7

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

COPY MAILED

JUN 1 7 2004

OFFICE OF PETITIONS

In re Application of
George Quallich, et al.
Application No. 10/421,209
Filed: April 23, 2003
Attorney Docket No. PC11888A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by May 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed June 18, 2003. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge. On May 6, 2004, the present petition was filed, as well as an executed declaration under 37 CFR 1.63, the surcharge under 37 CFR 1.16(e) and a 4-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,480 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

Thereafter the application will be returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed May 6, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FLASTER/GREENBERG P.C.
8 PENN CENTER
1628 JOHN F. KENNEDY BLVD.
15TH FLOOR
PHILADELPHIA PA 19103

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Arkles et al.	:	
Application No. 10/421,232	:	ON PETITION
Filed: April 23, 2003	:	
Attorney Docket No. 8743-66U1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 12, 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 a continuing application; (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 above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/716,134.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO IL 60606

COPY MAILED

JAN 2 2 2007

OFFICE OF PETITIONS

In re Application of	:	
YAMAZAKI, et al.	:	
Application No. 10/421,238	:	DECISION GRANTING PETITION
Filed: April 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0361	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 17, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 7, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 04/23/2010

Applicant	: Andreas Bechtolsheim	: DECISION ON REQUEST FOR
Patent Number	: 7606886	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/421,246	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/421,254	04/22/2003	Ahmad B. Dowlatabadi	016410-0315726	4602

3897 7590 06/10/2008
SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

EXAMINER
LAXTON, GARY L

ART UNIT	PAPER NUMBER
2838	

MAIL DATE	DELIVERY MODE
06/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHNECK & SCHNECK
P.O. Box 2-E
San Jose, CA 95109-0005

In re Application of: Ahmad B. Dowlatabadi Serial No.: 10/421,254 Filed: April 22, 2003 Attorney Docket No.: **016410-0315726**	: : : : :	*SUA SPONTE* DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for the failure to file a response to the final Office action mailed on November 17, 2006. A Notice of Abandonment was mailed on September 29, 2007.

A review of the written record shows that the a request for a three (3) month extension of time and Notice of Appeal was filed on May 17, 2007. Then, a request for a five (3) month extension of time and a Request for Continued Examination was filed on December 17, 2007.

In view of the above, it appears that the application was prematurely abandoned.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status to await the expiration of the 2 months.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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.
10/421,254	04/22/2003	Ahmad B. Dowlatabadi	016410-0315726	4602

7590 07/19/2010
LAW OFFICES OF JAMES E. EAKIN
P.O. Box 1250
Menlo Park, CA 94025

EXAMINER
LAXTON, GARY L

ART UNIT	PAPER NUMBER
2838	

MAIL DATE	DELIVERY MODE
07/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF JAMES E. EAKIN
P.O. BOX 1250
Menlo Park, CA 94025

In re Application of: Ahmad Dowlatabadi Serial No.: 10/421,254 Filed: April 22, 2003 Attorney Docket No.: 016410-0315726	: : : : :	DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Final Office action was mailed on May 18, 2009. A Notice of Appeal was filed on November 18, 2009. To perfect the appeal, an Appeal Brief must be filed within two months of the date of the Notice of Appeal. This time period may be extended under 37 CFR 1.136(a). Since the time for filing the Appeal Brief may be extended for up to a maximum five months from its due date of January 18, 2010, the Appeal Brief would have been considered timely filed if submitted on or before June 18, 2010 along with a petition for an extension of time of five months and requisite fees. As such, the holding that the instant application became abandoned and the mailing of the Notice of Abandonment on May 6, 2010 are in error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn in view of the fact that a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 along with a petition for an extension of time of four months and requisite fees were timely filed on May 17, 2010. The application is not abandoned in fact.

The RCE filed May 17, 2010 will be processed and an Office action will be prepared by the examiner in due course.

Any inquiry regarding this decision should be directed to Monica Lewis, Supervisory Patent Examiner, at (571) 272-1838.

John W. Cabeca, 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

RECHES PATENT
211 NORTH UNION STREET
SUITE 100
ALEXANDRIA, VA 22314

COPY MAILED

NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael BUER, et al	:	
Application No. 10/421,257	:	DECISION ON PETITION
Filed: April 22, 2004	:	
Attorney Docket No. 5079P027	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed May 30, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEPARTMENT OF THE AIR FORCE
AFMC LO/JAZ
BLDG 11, ROOM D18
WRIGHT-PATTERSON AFB OH 45433-7109

MAILED

FEB 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Crane et al.	:	
Application No. 10/421,270	:	ON PETITION
Filed: April 23, 2003	:	
Attorney Docket No. AFD 633	:	

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 **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 April 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)(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 July 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), including the fee of $810, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3737 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 Bottorff
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER MENKE
AFMCLO/JAZ
BLDG 11, ROOM D18
2240 B STREET
WPAFB, OH 45433

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

COPY MAILED
JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Coronel et al.	:	
Application No. 10/421,368	:	
Filed: April 23, 2003	:	ON PETITION
Attorney Docket Number:	:	
01-GR1-322	:	

This is a decision on the Petition Requesting Withdrawal of Abandonment, filed February 6, 2006. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed May 18, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned August 19, 2005. A Notice of Abandonment was mailed on January 19, 2006.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant asserts that a timely reply was filed on November 18, 2005. In support of this assertion, Applicant files copies of a three (3) month petition for extension; a Notice of Appeal; a Response After Final, and Remarks. A review of the documents reveal that they include a certificate of mailing under 37 CFR 1.8 dated November 18, 2005. Petitioner also submits a Declaration executed by Petitioner attesting on a personal knowledge basis to executing the certificate of mailing on November 18, 2005, and to placing the documents for mailing with the United States Post Office.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No fee has been charged for the petition and none is due.

The application file is being referred to Technology Center Art Unit 2812 for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 03,2007

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/421,368 Patent No.: 7214597 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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE **Art Unit** 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KUNZLER & ASSOCIATES
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

COPY MAILED
SEP 27 2006
OFFICE OF PETITIONS

In re Application of
Bonilla et al.
Application No. 10/421,374
Filed: April 22, 2003
Title: Method, Apparatus, and System for Simulating Visual Depth in a Concatenated Image of a Remote Field of Action

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on October 19, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 20, 2006. This decision precedes the mailing of a Notice of Abandonment.

37 CFR 1.33(b) states in pertinent part:

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii)

of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition has not been executed by the attorney of record. The signature block was left blank.

The petition has **not** been reviewed on its merits.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KUNZLER & ASSOCIATES
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Bonilla et al.
Application No. 10/421,374
Filed: April 22, 2003
Title: Method, Apparatus, and System for Simulating Visual Depth in a Concatenated Image of a Remote Field of Action

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 27, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on October 19, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 20, 2006. A petition under 37 CFR 1.137(b) was dismissed on September 27, 2006. A non-final Office action was mailed on October 3, 2006 while the application was abandoned.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being forwarded to Technology Center 2600.

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

2/20/08

Patent No. :7020520
Inventor(s) : Olson et al
Issued : 3/28/2006
Title : Defibrillator Enclosure System
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [75] is printed in accordance with the record and there need to be more clarity on what your trying to change because there is no column 1 line 5 and col.1 line 9. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Patterson, Thuente, Skaar & Christensen, P.A
4800 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2100

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

COPY MAILED
JUL 08 2008
OFFICE OF PETITIONS

In re Application of :
Michael B. ADLER et al. :
Application No. 10/421,379 : DECISION ON PETITION
Filed: April 22, 2003 :
Attorney Docket No. WQNI-26,356 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 14, 2007 which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 15, 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 $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
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

Himanshu S. Amin
Amin & Turocy , LLP–24th Fl.,National City Ctr.
1900 East 9th Street
Cleveland, OH 44114

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Bela Bollobas, et. al.	:	
Application No. 10/421,385	:	ON PETITION
Filed: April 23, 2004	:	
Attorney Docket No. MS303620.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

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 25, 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 after midnight August 25, 2003.

In response, petitioner submitted with the instant petition $1,330 for the petition fee, $770 for the filing fee, an Oath/Declaration, $130 for the late filing of the Oath/Declaration, and $806 in claim fees.

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 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.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC -1 2004

In re Application of	:	
George C. Gates et al.	:	
Serial No. 10/421,405	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW AS ATTORNEY
For: BAG HANDLING MACHINE	:	

By papers filed on August 20, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Fred H. Zollinger, III
6370 Mt. Pleasant Ave., NW
P.O. Box 2368
North Canton, OH 44720

E. Rollins-Cross, Director
Technology Center 3700

Sand and Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

A. Sidney Johnston
CESARI and MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210

MAILED

MAR 17 2006

Technology Center 2100

In re Application of:
Stephen L. MANLEY, et al
Application No. 10/421,419
Filed: April 23, 2003
For: SYSTEM AND METHOD FOR ASYNCHRONOUS MIRRORING OF SNAPSHOTS AT A DESTINATION USING A PURGATORY DIRECTROY AND INODE MAPPING

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed September 18, 2005 under 37 CFR § 1.181(a) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRATNED**.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed November 16, 2004. A Notice of Abandonment was mailed on August 30, 2005.

In support of the petition, petitioner provides a copy of the return receipt post card listing (1) Check No. 29982 for $450; (2) Response to Office action; and (3) Patent Application Fee Determination Record. The Return Acknowledgment Postcard has a USPTO stamp indicating receipt at the USPTO on February 16, 2005. Petitioner also provides copies of the documents as listed on the post card.

A review of the Image File Wrapper (IFW) for the above-identified application, it reveals that the original response to Office action and the other documents as list on the post card were received and captured into electronic images on February 16, 2005. Thus, applicant did timely file a response to the Office action mailed on November 16, 2004, and the instant application is not abandoned in fact.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby withdrawn.

The application is being forwarded to the Technology Center Support Staff to process and enter the response dated February 16, 2005. From there, the application will be forwarded to examiner for appropriate action.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/421,421	04/23/2003	3723	750	03-0167	1	20	3

CONFIRMATION NO. 4972

CORRECTED FILING RECEIPT

OC000000011148797

24319
LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106 LEGAL
MILPITAS, CA 95035

Date Mailed: 10/30/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael J. Bermann, West Linn, OR;
Matthew R. Trattles, Troutdale, OR;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2003

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

Title

Visual wear confirmation polishing pad

Preliminary Class

451

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/421425

Paper No.: _____

DATE : 12-16-05

TO SPE OF : ART UNIT ~~3664~~ 3763

SUBJECT : Request for Certificate of Correction on Patent No.: 6936053

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch ~~- PK 3-922~~ S/T 9A22

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.

Check Drawings

Thank You For Your Assistance

E Young

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:

Cris L Rodriguez

SPE

3732

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AARON WININGER
SQUIRE SANDERS & DEMPSEY, L.L.P.
600 HANSEN WAY
PALO ALTO, CA 94304-1043

COPY MAILED

JUN 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Joo Hyeon Park et al	:	
Application No. 10/421,490	:	NOTICE
Filed: April 22, 2003	:	
Attorney Docket No. 61282.00003		

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 1624.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#8

MCGARRY BAIR PC
171 MONROE AVENUE, NW
SUITE 600
GRAND RAPIDS, MI 49503

In re Application of :
Richard M. Chesbrough et al :
Serial No.: 10/421,517 : DECISION ON PETITION
Filed: April 23, 2003 :
For: Apparatus for the Percutaneous Marking
Of a Lesion :

This is in response to applicants' petition filed April 23, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Glenn P. Rickards
DOWREY RICKARDS PLLC
Suite 106
19119 Northcreek Parkway
Bothell WA 98011

MAILED

SEP 10 2003

Office of the Director
Group 3600

In re application of
W. Sam Coblentz
Application No. 10/421519
Filed: April 23, 2003
For: **METHOD AND APPARATUS FOR PALLET REMOVAL CARGO QUEUING AND STOWAGE OF STACKS OF CARTONS OF FROZEN ANIMAL PRODUCTS**

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 23, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration from the applicant stating 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 fid*** effort, in response to each Office action, to place

the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 8/7/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
SUITE 900
WASHINGTON DC 20005

COPY MAILED

JAN 27 2004

OFFICE OF PETITIONS

In re Application of
Timothy Voss
Application No. 10/421,521
Filed: April 23, 2003
Attorney Docket No. C0464/271656
Title: METHOD AND SYSTEM OF ASSESSING RISK USING A ONE-DIMENSIONAL RISK ASSESSMENT MODEL

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed December 19, 2003.

The above-identified application was filed on April 23, 2003, without an executed oath or declaration and identifying Timothy Voss as the sole inventor. On June 24, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

On December 19, 2004, petitioner filed the instant petition, including the petition fee, the surcharge associated with the late filing of an oath or declaration, a four-month extension of time to make timely this reply, a blank declaration, a statement of the last known address of the non-

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

signing inventor, an assignment agreement which has been executed by the non-signing inventor, and a statement pertaining to irreparable damage.

Petitioner has failed to meet requirements (4) – (5) and (8) above.

Regarding the fourth requirement above, it is not clear if the non-signing inventor actually received the above-mentioned papers. The correspondence is not sufficient to make the necessary showing that the non-signing inventor was ever presented with a copy of the application and the accompanying declaration, for the Office requires these materials to be sent to the residence of the inventor, as that is most likely the location where he might receive mail. Unfortunately, in his declaration of facts, the petitioner states that "a copy of the application papers (including the assignment declaration) were sent to the office address of the inventor[2]."

Furthermore, the Federal Express tracking report establishes that the package was received by one Peter E. Wilk. It is not clear who this individual is, and it has not been established that this individual delivered the package to the non-signing inventor. What is clear is that the non-signing inventor did not receive the package directly from Federal Express.

There appears to be a conflict as to where the non-signing inventor customarily receives mail. The act of mailing this package to his work address would lead one to believe that the non-signing inventor normally receives mail at his place of business. However, it is noted that the declaration gives both the residential and mailing address of the non-signing inventor to be "120 Morgan Street, Apt. 110B, Stanford, CT, 06905." Furthermore, the petitioner has indicated that this is the last known address for the non-signing inventor. For some reason, however, an online check of the Federal Express website confirms the petitioner's statement that the package was sent to the office of the inventor, in that the package was sent to Timothy Voss, Citigroup, 750 Washington Boulevard, Stamford, CT, 06902.

This discrepancy must be cleared up on renewed petition. If the non-signing inventor normally receives his mail at his place of business, then no further action need be taken pertaining to the attempt to deliver the papers to him. If the declaration is to be believed, the papers will need to be delivered to the residential address, is this is the location where the non-signing inventor customarily receives mail.

Regarding the fifth requirement above, it follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign a declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

---

2 Declaration of facts, page 1, paragraph 2.
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Regarding item (8) above, as it is not clear whether the declaration sets forth the residential and mailing addresses correctly, it cannot be determined whether or not the declaration is acceptable. Depending on the resolution of item (4) above, a new declaration may need to be submitted.

For these reasons, the petition under 37 C.F.R. §1.47(a) 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 1.47(a)."

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
6 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 10

KILPATRICK STOCKTON LLP
607 14TH STREET, N.W.
SUITE 900
WASHINGTON DC 20005

COPY MAILED
JUL 2 6 2004
OFFICE OF PETITIONS

In re Application of
Timothy Voss
Application No. 10/421,521
Filed: April 23, 2003
Attorney Docket No. C0464/271656
Title: METHOD AND SYSTEM OF ASSESSING RISK USING A ONE-DIMENSIONAL RISK ASSESSMENT MODEL

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(b) AS MOOT

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed July 15, 2004.

The above-identified application was filed on April 23, 2003, without an executed oath or declaration and identifying Timothy Voss as the sole inventor. On June 24, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the original petition on December 19, 2003, which was dismissed via the mailing of a decision on January 27, 2004 for failure to meet requirements (4) – (5) and (8) above.

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

With this renewed petition, Petitioner has submitted a four-month extension of time to make timely this response, along with an acceptable declaration which has been executed by the formerly non-signing sole inventor.

This declaration has been reviewed and found to be in compliance with 37 C.F.R. §1.63.

In view of the joinder of the inventor, further consideration under 37 C.F.R. §1.47(b) is not necessary and the petition is **DISMISSED AS MOOT**. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. §1.47(b).

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) 305-0011. 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

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

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Roy A. Ostgaard	: DECISION ON REQUEST FOR
Patent Number	: 7579190	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/421,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/421,565	04/23/2003	Jeffrey A. Tilton	25343A	6119

22889 7590 09/20/2004

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER
DIXON, MERRICK L

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 20 2004

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of	:	
Jeffrey A. Tilton et al.	:	
Serial Number : 10/421,565	:	WITHDRAWAL
Filed : April 23, 2003	:	FROM
For : DECORATIVE PANEL WITH	:	ISSUE
SURFACE PRINTING	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Owens Corning
2790 Columbus Road
Granville, OH 43023

cc: Allowed Files, Pk3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

COPY MAILED

MAY 0 9 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeffrey A. Tilton et al :
Application No. 10/421,565 :
Filed: April 23, 2003 :
Attorney Docket No. 25343A :

This is a decision on the petition, filed May 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) 272-3208.

The examiner of Technology Center AU 1774 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

William W. Habelt
Carrier Corporation
Carrier Parkway
P.O. Box 4800
Syracuse, NY 13221

COPY MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 6,851,271 :
Issue Date: February 8, 2005 :
Application No. 10/421,575 : ON PETITION
Filed: April 23, 2003 :
Patentee(s): Ronald D. Upton, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on February 20, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey R. McFadden 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.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A courtesy copy of this decision is being mailed to the address given in the present petition. However, if petitioner desires to receive future correspondence regarding maintenance

fees for the above patent, the appropriate power of attorney or authorization of agent and a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted (*See USPTO forms PTO/SB/47 and PTO/SB/125*).

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jeffrey R. McFadden
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7027
Atlanta, GA 30357-0037

UNITED STATES 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

COPY MAILED

JAN 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard Clark, et al.	:	
Application No. 10/421,577	:	ON PETITION
Filed: April 23, 2003	:	
Attorney Docket No. 6918.US.O2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
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

BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO, IL 60610

COPY MAILED

NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Kazuaki Ikarashi et al	:
Application No. 10/421,585	: DECISION GRANTING PETITION
Filed: April 23, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9281-4530	:

This is a decision on the petition, filed August 23, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1773 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

---

[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).*

RECEIVED
CENTRAL FAX CENTER
SEP 0 8 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Welkie, et al.
Serial No. 10/421,590
Filed: April 23, 2003
Group Art Unit: 2863
Examiner: Dougherty
For: Apparatus and Methods for Reduction of Coherent Noise.....
Attorney Docket No. 840.093

September 8, 2005

MOOT - new Notice of Allowance mailed 2/8/06; Issue Fee paid 2/17/06 - Original Notice of Allowance mailed 3/28/05 was returned to PTO undelivered. EW

RECEIVED
OIPE/IAP
SEP 1 2 2005

BY FAX (571) 273-8300
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION REQUESTING RE-ISSUANCE OF NOTICE OF ALLOWANCE AND SETTING NEW PAYMENT DATE

Sir:

On February 9, 2005 applicant filed an Amendment and Petition for Extension of Time in response to the Office Action of August 9, 2004.

While applicant filed a change of address by facsimile transmission on April 7, 2005 with respect to this application, applicant had previously filed a blanket change of address using our customer number 04617 prior to our move in September 2003 by using the global on-line feature, as recommended by the PTO.

To our understanding, such global on-line activity would effectuate the change of address for all pending applications which had our customer number as did this case. In the Amendment filed February 9, 2005, our customer number is identified as seen in the attached sheet, and the additional change of address on April 7, 2005 should have been unnecessary. Since our change of address was effective at least as early as February 9, 2005, it is respectfully submitted the Notice of Allowance should have been sent to our correct address.

Having received no communications from the USPTO subsequent to the filing of the Amendment, we telephoned the Examiner's supervisor, John E. Barlow on the morning of September 8, 2005.

09/13/2005 WABDELR1 00000080 10421590
01 FC:1464 130.00 OP

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Ganesh Kannan	: DECISION ON REQUEST FOR
Patent Number	: 7582693	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/421,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Ken Algiene	:	
Application No. 10/421,604	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 020375-038000US	:	

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 25, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 17, 2007. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on August 18, 2007. A Notice of Abandonment was mailed on September 14, 2007.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and paid the issue fee.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES 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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Herz, et al.
Application No.: 10/421,609 : ON PETITION
Filed: April 22, 2003 :
Attorney Docket No: :

This is in response to the petition under 37 CFR 1.137(b) filed August 5, 2005.

The petition under 37 CFR 1.137(b) is **granted**.

On June 9, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration and $65.00 surcharge. No further response was received within the allowable period and the application became abandoned on August 10, 2003. A Notice of Abandonment was mailed on August 31, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The declaration field August 5, 2005, is noted and made of record.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

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

Paper No. 7

COPY MAILED

OCT 03 2005

OFFICE OF PETITIONS

Frederick S. M. Herz
P.O. Box 67
Warrington PA 18976

In re Application of
Frederick Stephan Michael Herz et al.
Application No. 10/421,618
Filed: April 22, 2003
Title: SECURE DATA INTERCHANGE OF BIOCHEMICAL AND BIOLOGICAL DATA IN THE PHARMACEUTICAL AND BIOTECHNOLOGY INDUSTRY

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on September 7, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed June 17, 2003, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 18, 2003. A Notice of Abandonment was mailed on September 3, 2004.

With the present petition, Petitioner has submitted the petition fee, a declaration which has been signed by each of the two joint inventors, the surcharge associated with the late submission of the same, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Frederick S. M. Herz
P.O. Box 67
Warrington PA 18976

COPY MAILED

AUG 04 2008

OFFICE OF PETITIONS

In re Application of

Herz, et al.

Application No. 10/421,618

Filed: April 22, 2003

Attorney Docket No. REFH-0150.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2008, 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 28, 2007, 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 29, 2007. A Notice of Abandonment was mailed on April 9, 2008.

The amendment filed July 10, 2008, is noted and made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being

mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 1600, GAU 1631 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Michael P. Dunnam
Woodcock Washburn, LLP
Circa Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED
JUN 18 2010
OFFICE OF PETITIONS

In re Patent No. 6,949,280 :
Issue Date: September 27, 2005 :
Application No. 10/421,627 : ON PETITION
Filed: April 22, 2003 :
Attorney Docket No. **216678002US3** :

This is a decision on the petition under 37 CFR 1.378(c), filed May 3, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Charles J. Rupnick appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Mr. Rupnick desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This patent expired at midnight September 27, 2009, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 37 CFR 1.378(c) must be accompanied by (1) a statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Accordingly, the maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: CHARLES J. RUPNICK
PO BOX 46752
SEATTLE, WA 98146

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL B. EINSCHLAG
25680 FERNHILL DRIVE
LOS ALTOS HILLS, CA 94024

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Phillip J. Petillo et al	:	
Application No. 10/421,653	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. hydrogen generator	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 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 1745 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

YAKOV BRILMAN
219 Laurel Rd, apt. 508
Voorhees NJ 08043

COPY MAILED

MAY 05 2005

OFFICE OF PETITIONS

Applicant: Brilman
Appl. No.: 10/421,660
Filing Date: April 23, 2003
Title: METHOD OF TREATING DISEASES CONNECTED WITH IMMUNITY DEFICIENCY
Pub. No.: US 2004/0213809 A1
Pub. Date: October 28, 2004

This is a decision on the papers filed in the above identified application received on November 8, 2004, November 22, 2004, December 22, 2004, December 23, 2004 and January 10, 2005, which are being treated as a Request for a Corrected Patent Application Publication Under 37 CFR 1.221(b).

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

With respect to applicant's inquiry as to why the specification from the other application was published under the above-identified application, the other specification was published because applicant attempted to file a new patent application with the USPTO but he included the Notice to File Missing Parts of Nonprovisional Application from the above-identified application and a letter requesting to amend that application. The Office of Initial Patent Examination (OIPE), thus construed those papers to be follow on papers for the above-identified application and placed the papers in that file. Applicant is cautioned that when filing application papers for a new patent application, papers should not be included, which include application numbers in the header from other applications such as Preexam notices. Applicant is also cautioned against submitting papers for different applications in the same envelope.

Application papers filed on September 23, 2003, for a new application entitled "Enteropathogenic E. Coli is a Separate Genus Pathogenic Bacteria," which included a Preexam Formalities Notice for Application No. 10/421,660, and was thus placed in Application No. 10/421,660, have been removed from that application file and forwarded to the Office of Initial Patent Examination for processing, as a separate application.

Papers filed for Application No. 10/792,490 received on January 10, 2005, which included a letter for Application No. 10/421,660, and thus placed in Application No. 10/421,660 have been removed from that application file and copied to Application No. 10/792,490.

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items in the header:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.
6. Confirmation number (See MPEP § 503).

With respect to applicants request on March 11, 2005, to transfer excess fees paid for Application No. 10/421,660 to Application No. 10/972,490, because applicant paid $880 for the first application, and Applicant was only requested to pay $460 for the later filed application, thus he overpaid the first application by $420. The reduced fees were charged in the second application, because Applicant made a request for small entity status, not because he reported that he was a senior citizen. Unfortunately, it is too late to make a claim for small entity status that applies to the filing fees and it is too late to make a request a refund for the overpayment in this application. See 37 CFR 1.28 below:

1.28 Refunds when small entity status is later established; how errors in small entity status are excused.
(a) Refunds based on later establishment of small entity status . A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a

request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

This application may qualify for "Small Entity Status" and, therefore, applicant may be entitled to the payment of reduced fees for other fees that may need to be paid. In order to establish small entity status for the purpose of paying small entity fees, applicant must make a determination of entitlement to small entity status under 37 CFR 1.27(f) and make an assertion of entitlement to small entity status in the manner set forth in 37 CFR 1.27(c)(1) or 37 CFR 1.27(c)(3). Accordingly, if applicant meets the requirements of 37 CFR 1.27(a), applicant must submit a written assertion of entitlement to small entity status under 37 CFR 1.27(c) before fees can be paid in the small entity amount. See 37 CFR 1.27(d). The assertion must be signed, clearly identifiable, and convey the concept of entitlement to small entity status. See 37 CFR 1.27(c)(1). No particular form is required.

The application will be examined in due course.

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

UNITED STATES 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. 6886388
Issue Date: May 3,2005
Application No. 10421675
Filed: April 23,2003
Attorney Docket No. 4985.108547

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 30,2010 ,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 July 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6886388	2005-05-03	10421675	2003-04-23	FEC0143

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/don kenney/	Date (YYYY-MM-DD)	2010-07-30
Name	Don Kenney, Pres. Franklin Fueling Systems, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	021387	Frame Number	0761
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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

JAN 24 2005

TOWNSEND & BANTA
601 PENNSYLVANIA AVE N.W.
SUITE 900, SOUTH BLDG
WASHINGTON DC 20004

In re Application of	:
Nobuyuki Ide et al	:
Serial No.: 10/421,689	: PETITION DECISION
Filed: April 24, 2003	:
Attorney Docket No.: TOS-143-UDS-D	:

This is in response to the petition under 37 CFR 1.181, filed November 30, 2004, requesting withdrawal of abandonment based on failure to receive an Office action.

A review of the file history shows that the examiner mailed an Office action to applicants on December 11, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the examiner mailed a Notice of Abandonment to applicants on July 27, 2004. Applicants state that the Office action was never received and provide statements and docket reports evidencing non-receipt. In view of thereof the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision. It is noted that applicants delayed more than two months after receiving the Notice of Abandonment before filing this petition. Such delay in the future may require submission of a Terminal Disclaimer. (See M.P.E.P. 711.03(c)) The requirement for a Terminal Disclaimer is waived in this instance.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 30 2009

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Sang Chul Bae et al.	:	
Application No. 10/421,710	:	ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. **3449-0234P**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2426 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-19-08

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/421752** Patent No.: **6765164**

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/renee s luebke/	Renee Luebke	SPE - Au 2833
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

STEIN MCEWEN & BUI LLP
1400 EYE ST. N.W.
SUITE 300
WASHINGTON, D.C. 20005

COPY MAILED

MAR 23 2007

OFFICE OF PETITIONS

In re Patent No. 7,052,784 :
Issue Date: May 30, 2006 :
Application No. 10/421,754 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. 1514.1024 :

This is a decision on the petition filed October 10, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STITES & HARBISON PLLC
401 COMMERCE STREET
SUITE 800
NASHVILLE TN 37219

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of

Piletz, et al.

Application No. 10/421,763

Filed: April 24, 2003

Attorney Docket No. 11637N/070490

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 29, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time within the first month was obtained on September 28, 2006, but no response was filed. Accordingly, the application became abandoned on October 30, 2006. A Notice of Abandonment was mailed March 8, 2007.

The amendment filed July 30, 2007, is noted.

The application is being forwarded to Technology Center 1600, GAU 1649 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Hiromichi Atsuumi et al :
Application No. 10/421,786 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. 236933US2 :

This is a decision on the petition, filed June 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 May 31, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2872 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/5/07

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 7050210

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:

Requested Correction appears to duplicate information already shown in patent

Stephen Ball — **SPE**

2872 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/6/08

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 7050210

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:

OK to make changes.

Stephone B. Allen
Supervisory Patent Examiner

Stephone B. Allen — SPE

2872 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

MAILED

FEB 26 2004

Office of the Director
Group 3600

Fleshner & Kim, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

In re application of
Thomas Souza, Jr.
Application No. 10/421,817
Filed: April 24, 2003
For: GARDEN TOOL DEVICE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on August 28, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys associated with Customer No. 34610 do not correspond with those named in the Power of Attorney in the declaration thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 2/13/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 5/16/07

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/421840 Patent No: 7153845 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

1st Request has Wrong Tech. Center

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: _____

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

SPE

1616
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/30/07

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/421840 Patent No.: 7153845B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

SPE

1616
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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/26/2010

Applicant	: Naoki Makita	: DECISION ON REQUEST FOR
Patent Number	: 7612375	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/421,841	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **151** 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 10/421823

Paper No.: ____

DATE : ~~4/4/06~~ 2/23/06

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction on Patent No.: 6913710 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:

Do not permit changes to Inventors. The data is correct according to ADS.

4/6/06 1756

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
DIW Feb-06

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

COPY MAILED

FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Jose Wei	:	
Application No. 10/421,889	:	DECISION ON PETITION
Filed: 24 April, 2003	:	
Attorney Docket No. 3221/10	:	

This is a decision on the petition filed on 9 June, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 October, 2004, for failure to timely file corrected drawings in response to the Notice of Allowability mailed on 13 July, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 2 December, 2004.

---

[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)).

Receipt of the formal drawings submitted with the petition is acknowledged.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WATCHSTONE P + D
1300 EYE STREET, NW
SUITE 400 EAST TOWER
WASHINGTON DC 20005

COPY MAILED

JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Masahiko Mizutani et al. :
Application No. 10/421,920 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No.: 2905-105

This is a decision on the petition filed May 23, 2005 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for April 28, 2005, for failure to timely pay the issue fee on or before April 27, 2005. The instant petition and this decision on petition precede the mailing of the Notice of Abandonment.

Receipt of the issue fee, publication fee and petition fee are acknowledged.

This matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper 4

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of
Yasusi Kameyama Grommet
Application No. 10/421,935
Filed: April 24, 2003
Attorney Docket No. Q75296

DECISION GRANTING PETITION

This is a decision on the petition filed August 20, 2003 under 37 CFR 1.53, in response to the "Notice to File Missing Parts" mailed June 20, 2003.

The instant application was filed April 24, 2003 and a filing date was accorded. However, according to the "Notice" which also included a Notice of Omitted Items, it was indicated that the application papers submitted did not include page 20 of the specification.

Petitioner asserts that page 20 was among the papers filed on April 24, 2003, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of specification pages to be 24 and bears a United States Patent and Trademark Office date-stamp of April 24, 2003.[1] 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. Petitioners's deposit account no. 19-4880 will be credited in the amount of $130.00.

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 April 24, 2003 and page 20 of the specification submitted August 20, 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

---

[1]The specification consists of pages 1 through 23 and page 24 comprises the abstract. The post card receipt reads 23/1 to indicate a total of 24 pages.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Simpson et al.	:	DECISION ON PETITION
Application No. 10/421,979	:	UNDER 37 CFR 1.137(b)
Filed: April 22, 2003	:	
Attorney Docket No. 018489-002800US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on May 31, 2005, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on September 1, 2005. This decision precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted**.

This matter is being referred to Technology Center Art Unit 3731.

All inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center. Telephone inquiries specific to this decision 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED

FEB 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Neal SOLOMONl	:	
Application No. 10/421,985	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. 021731-000608US	:	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 7, 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 Robert R. Sachs 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 changed 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 C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: NEAL E. SOLOMON
P.O. BOX 21297
OAKLAND, CA 94620

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
10/421,985	04/22/2003	Neal Solomon	021731-000608US

CONFIRMATION NO. 5851

POWER OF ATTORNEY NOTICE

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

OC000000040222051

Date Mailed: 02/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/07/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP
CLINTON SQUARE
P. O. BOX 31051
ROCHESTER, NY 14603-1051

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Deok-Joo Kim, et al.	:	
Application No. 10/421,994	:	ON PETITION
Filed: April 23, 2003	:	
Attorney Docket No. 57899/132	:	

This is a decision on the petition under 37 CFR 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 non-final Office action mailed February 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 21, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 2800, Art Unit 2851 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JACKSON WALKER (CONEXANT)
901 Main Street, Suite 6000
Dallas, Texas 75202

DEC 24 2008

In re Application of STEVEN H. GARDNER et al. :
Appl. No.: 10/422,014 :
Filed: April 21, 2003 :
Attorney Docket No.: CNXT-01CXT0300C :
For: METHOD AND APPARATUS FOR :
ESTABLISHING CIRCUIT CONNECTIONS OVER :
LOCA AREA NETWORKS WITH FREQUENCY
SELECTIVE

DECISION ON PETITION
UNDER 37 C.F.R. §1.59

This is a decision on the petition under 37 C.F.R. §1.59(b), filed February 22, 2008, to expunge information inadvertently submitted on July 11, 2003 from the above-identified application.

The petition is GRANTED.

Petitioner requests that the materials submitted on July 11, 2003 be expunged from the record. Petitioner asserts the above-mentioned materials (which include the serial number of the above – mentioned application, a preliminary amendment including amendments to the claims and specification and applicant remarks, and an Information Disclosure Statement) were improperly submitted by counsel not of record and that these materials belong to a continuing application for U.S. Patent 6,567,122 which names no common inventor and has no common subject matter with the pending application. Petitioner also requests correction of the priority data for the above-mentioned application to remove the priority claim to U.S. Patent 6,567,122 as a result of the inadvertent entry of the above materials.

A review of the record shows that entry of these materials into the above-mentioned application file was an error on the part of the Office and therefore, the request is accepted.

The expunged documents have been closed from public view.

Since the above-mentioned application was patented on November 11, 2008, the priority data cannot be corrected at this time. A request for a certificate of correction in accordance with 37 C.F.R. §1.322 should be filed by the patentee or the patentee's assignee to correct such mistakes

Any inquiry regarding this decision should be directed to Chau Nguyen, Workgroup Quality Assurance Specialist, at (571) 272-3126.

Valencia Martin-Wallace, Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

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
10/422,033	04/22/2003	3641	375	021731-000613US	81	6	1

CONFIRMATION NO. 6274

CORRECTED FILING RECEIPT

OC000000011060589

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 10/20/2003

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)

Neal Solomon, Oakland, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/374,421 04/22/2002
and claims benefit of 60/404,945 08/21/2002
and claims benefit of 60/404,946 08/21/2002

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System, methods and apparatus for managing a weapon system

Preliminary Class

089

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Solomon, Neal	:	
Application No. 10/422,033	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 021731-00813US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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)
6717890	2004-04-06	10422041	2003-04-25	

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	/Howard Lee/	Date (YYYY-MM-DD)	2010-02-24
Name	Howard Hong-Dough Lee		

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. 6717890
Issue Date: April 6,2004
Application No. 10422041
Filed: April 25,2003
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 24,2010 ,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 February 24,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

CHARLES L. EVANS
MOORE & VAN ALLEN PLLC
2200 WEST MAIN STREET, SUITE 800
DURHAM, NC 27705

COPY MAILED

OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of
Lesesky Alan et al
Application No. 10/422,045
Filed: April 23, 2003
Attorney Docket No. 029538-000007

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 3600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Neal Solomon	:	
Application No. 10/422,051	:	ON PETITION
Filed: April 22, 2003	:	
Attorney Docket No. 021731-000610US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed April 27, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 28, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONOUGH, HOLLAND & ALLEN
555 CAPITOL MALL
9TH FLOOR
SACRAMENTO CA 95814

COPY MAILED
MAY 25 2006
OFFICE OF PETITIONS

In re Application of
Warren S. Barham
Application No. 10/422,056
Filed: April 23, 2003
Attorney Docket No.: **34703/0024**

: 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 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed February 3, 2006.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course,

consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1638 for appropriate action on the amendment filed February 3, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc:
ARNOLD AND PORTER, LLP
ATTN: IP DOCKETING
555 TWELFTH STREET, NW
WASHINGTON, DC 20004-1206

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OPTV/MOFO
c/o Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Lemmons	:	
Application No. 10/422,058	:	DECISION ON PETITION
Filed: April 22, 2003	:	TO WITHDRAW
Attorney Docket No. INTE.60USU1 (ITC60)	:	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 & 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 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thomas Lemmons**
7784 S. Swaps Trail
Evergreen, CO 80439

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington D.C. 20004

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
10/422,058	04/22/2003	Thomas Lemmons	INTE.60USU1 (ITC60)

CONFIRMATION NO. 6199

OC000000024895273

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 07/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- 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.

Gerri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER 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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Giorgio Corbucci	: DECISION ON REQUEST FOR
Patent Number	: 7647103	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1580** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Nathalie Virag	: DECISION ON REQUEST FOR
Patent Number	: 7647106	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **748** 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

Christopher J. Rourk
JACKSON WALKER L.L.P.
901 Main Street, Suite 6000
Dallas, TX 75202

COPY MAILED

APR 03 2008

OFFICE OF PETITIONS

In re Application of :
Steven H. Gardner :
Application No. 10/422,070 :
Filed: April 21, 2003 :
Attorney Docket No. 013628.00518 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 11 February 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 04 December 2007, as required by the Notice of Allowance and Fee(s) Due, mailed 04 September 2007. Accordingly, the date of abandonment of this application is 05 December 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 $1,440.00 and the publication fee of $300.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that 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 intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Publishing Division for processing into a patent.

Chris Botti

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTOPHER J. ROURK
JACKSON WALKER L.L.P.
901 MAIN STREET, SUITE 6000
DALLAS TX 75202

COPY MAILED

APR 14 2008

OFFICE OF PETITIONS

In re Application of :
Steven H. Gardner :
Application No. 10/422,070 :
Filed: April 21, 2003 :
Attorney Docket No. 013628.00518 :

CORRECTED
DECISION
ON PETITION

CORRECTED DECISION

This is a corrected decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 11 February 2008, to revive the above-identified application. An erroneous decision granting the petition was mailed April 3, 2008. That decision is hereby vacated. Any confusion or inconvenience that this erroneous mailing may have caused is regretted.

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 1) failure to timely pay the issue and publication fees on or before 04 December 2007, as required by the Notice of Allowance and Fee(s) Due, mailed 04 September 2007 and 2) failure to timely correct the inconsistency between the drawings and specification, as required by the Notice of Drawing Inconsistency with Specification, mailed 24 September 2007 with a period of reply of the longer of one month or thirty (30) days. Accordingly, the application became abandoned on 24 October, 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 (1).

The required reply includes the issue and publication fees AND the corrected inconsistency between the specification and drawings. The issue fee of $1,440.00 and publication fee of $300.00 were paid on 11 February 2008. However, the inconsistency between the drawings and specification has not been corrected. Since the full reply has not been filed, this application remains abandoned.

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 Christopher Bottorff at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 11 2010

OFFICE OF PETITIONS

JACKSON WALKER (CONEXANT)
901 MAIN STREET, SUITE 6000
DALLAS TX 75202

In re Application of	:	
Steven H. Gardner	:	
Application No. 10/422,070	:	DECISION ON PETITION
Filed: April 21, 2003	:	
Attorney Docket No. 013628.00518 (01CXT0301C)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 4, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 4, 2007. Accordingly, the date of abandonment of this application is December 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00, the publication fee of $300.00, and amendment to the specification related to the drawing inconsistency identified in the notice of Drawing Inconsistency with the Specification mailed September 24, 2007; (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) 272-6692.

This application is being referred to the Office of Data Management for processing into a patent.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Hamilton Brook Smith and Reynolds P C
530 Virginia Road
P O Box 9133
Concord MA 01742-9133

Dear Applicant:

The Box PGPub replacement drawings for application number 10/422,074 received on 5/19/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Northrop Grumman Space & Mission Systems Corp.
Space Technology
One Space Park, R11/2796BE
Redondo Beach CA 90278

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
HOLMES, Michael J. et al. :
Application No.: 10/422,083 :
Filing Date: April 24, 2003 :
Docket No.: 000299-804 :
For: EFFICIENT DECODING OF TRELLIS :
CODED MODULATION WAVEFORM :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on September 28, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts mailed June 24, 2003. This Notice set a two (2) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective August 25, 2003. A Notice of Abandonment was mailed on September 03, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of a declaration and the required fees, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to the Office of Initial Patent Examination for continued processing.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Frances Dickson for

Brian Hearn
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

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Richard F. Clark et al.
Application No. 10/422.111
Filed: April 24, 2003
Attorney Docket No.: 6922.US.02

This is a decision on the petition filed February 14, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 23, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 24, 2004. The instant petition and decision on petition precedes the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 1623 for appropriate action on the amendment filed February 14, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LARRY R. MEENAN
KENNAMETAL INC.
P.O. BOX 231
LATROBE PA 15650

COPY MAILED

JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of
Nicholas F. Gaggle, Jr.
Application No. 10/422,115
Filed: April 24, 2003
Attorney Docket No. K-1890

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed November 9, 2004, and treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on July 8, 2004, for failure to timely a response to the non-Final Office Action mailed April 7, 2004. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on October 19, 2004.

Petitioner asserts that a proper response in the form of an amendment with a three month extension of time was filed on October 1, 2004. Submitted as proof is a a copy of the response, including the extension of time request, and a copy of the facsimile transmission confirmation dated October 1, 2004.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time were timely filed by facsimile transmission on October 1, 2004. For some reason, however, the response including the extension of time request, was not matched with the file at the time of receipt.

Accordingly, the Notice of Abandonment mailed October 19, 2004 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged however, the fee for the three month extension of time will be charged to deposit account no. 50-2867.

This matter is being referred to Technology Center 3722 for treatment of the response filed October 1, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 15 2004

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

In re Application of
Boris Shurkovich et al
Serial No.: 10/422,119
Filed: April 24, 2003
Attorney Docket No.: 53663-5017

: PETITION TO MAKE SPECIAL

This is in response to applicants petition filed August 22, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in response to this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number, 703-872-9306.

Jean F Vollano

Jean F. Vollano
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

COPY MAILED

SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Hongsoon Lim	:	
Application No. 10/422,122	:	DECISION ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. 8100-1 (PGU1024)	:	
Title: SHEET WINDING MACHINE FOR A	:	
TOILET STOOL	:	

This is a decision on the petition under 37 C.F.R. §1.182, filed August 20, 2004, to change the spelling of the name of the inventor.

Petitioner has set forth that last name of the inventor, originally set forth as "Leem," is properly spelled "Lim." Along with the petition fee, Petitioner has included a newly executed declaration which contains the correct spelling.

The petition under 37 C.F.R. §1.182 is **GRANTED**.

A corrected filing receipt has been enclosed.

This application is being forwarded to the Office of Patent Publications for further processing into a patent.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of
Sei-Hyung Ryu
Application No. 10/422,130
Filed: April 24, 2003
Attorney Docket No. 5308-287

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 15, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 22, 2005. A Notice of Abandonment was mailed on November 28, 2005. Receipt is acknowledged of the requisite issue/publication fee on December 15, 2005.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (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

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

SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: David A. Wyle	: DECISION ON REQUEST FOR
Patent Number	: 7636886	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **990** 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.go

MAYER, FORTKORT & WILLIAMS, P.C.
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

COPY MAILED

AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Einthover et al.	:	
Application No. 10/422,138	:	DECISION GRANTING PETITION
Filed: April 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. GS 108 D1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 23, 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 pending application was filed on April 24, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 2822 for appropriate action on the amendment filed February 23, 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.

Brian Hoer, for

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Peter Csensich and
Gerald Castor
Application No. 10/422,155
Filed: April 24, 2003
Atty Docket No. 116714-00008
Title: HEARING COUPLER SHELLS OF SOFT PLIABLE THERMOPLASTIC MATERIAL

DECISION ACCORDING RULE 47 STATUS

This is in response to the papers styled "Completion of Filing Requirements - Nonprovisional Application" filed January 29, 2004 (certificate of mailing dated Monday, January 26, 2004). These papers are being treated as a request under 1.63(d) for submission in this application of a copy of an executed declaration originally filed in a prior application accorded status under § 1.47.

The above-identified application was filed on April 24, 2003, as a continuation of prior nonprovisional application No. 09/300,933, filed April 28, 1999 (abandoned April 24, 2003 in favor of the instant application). The application was filed without an oath or declaration. Peter Csensich and Gerald Castor were named as the joint inventors. The application as filed included a statement that Barbara Gedeon and Gerald Bloch named inventors in the prior application had been deleted as inventors in this application.

On June 25, 2003, a "Notice To File Missing Parts of Application- Filing Date Granted" was mailed, requiring an oath or declaration signed by all joint inventors and a surcharge for its late filing. In addition, the Notice stated that the statutory basic filing fee was required. This Notice set a two-month period for reply.

With the instant application, rule 47 applicants filed a copy of the declaration filed in the prior application (and submitted payment of the surcharge and statutory basic filing fee). This response was made timely by a petition and fee for extension of time for response within the fifth month. The declaration submitted was executed by inventors Csensich, Bloch and Castor on behalf of themselves and on behalf of non-signing inventor Gedeon in prior application No. 09/300,933. A decision accepting the declaration under 37 CFR 1.47(a) in the prior application was mailed on May 21,

2001 (A copy of this decision was obtained from the prior application and made of record in the instant application). A review of the Utility Patent Application Transmittal form for this application reveals that it is a continuation of prior Application No. 09/300,933.

37 CFR 1.63(d) provides that:

> (1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:
>
> (i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;
>
> (ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;
>
> (iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and
>
> (iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.
>
> (2) The copy of the executed oath or declaration submitted under this paragraph for a continuation or divisional application must be accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application.
>
> (3) Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and
>
> (ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.63. The acceptance of the declaration is based on an assumption that the specification and drawings filed in this continuation application contain no matter that would have been new matter in the prior application. This application is hereby accorded Rule 1.47(a) status.

Pursuant to § 1.47(c), given that this is a continuation application and notice was given upon according of 1.47(a) status in the prior application, the Office will dispense with giving notice regarding the filing of this application to the nonsigning inventor.

The application file is being forwarded to Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

COPY MAILED Paper No. 11

MAY 2 1 2001

OFFICE OF PETITIONS
A/C PATENTS

OLDHAM & OLDHAM CO
TWIN OAKS ESTATE
1225 W MARKET STREET
AKRON , OH 44313

In re Application of
CSENSICH, PETER J., *et al.*
Application No. 09/300,933
Filed: 04/28/1999
Attorney Docket No. 6714-2

DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the Petition Under 37 C.F.R. §1.47(a) filed on November 29, 1999.

The above-identified application was filed on April 28, 1999, naming Peter J. Csensich, Barbara, J. Gedeon, Gerald Bloch, and Gerald Castor as joint inventors. However, the application did not include a declaration signed by all co-inventors. Accordingly, a notice to file missing parts of application (hereinafter "the notice") was mailed to the address of record on May 20, 1999.[1] Petitioner filed his response to the notice (which included a petition for a four month extension of time and payment of all outstanding fees) on November 29, 1999.[2]

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §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 Declaration. 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 under rule 1.47(a).

Telephone inquiries regarding this decision should be directed to Petitions Attorney Scott Ledford at (703) 305-5593.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

---

[1] The basic statutory filing fee was also missing.

[2] The notice set a two month deadline for responding, making July 20, 1999 the effective due date for a reply. The November 29, 1999 response included only a request for a four month extension of time. Therefore, pursuant to the authorization included with the request, the additional month required will be charged to deposit account number 15-0450.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Shojiro Kawakami et al	:	
Application No. 10/422,156	:	ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. FUK-105	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed April 21, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 22, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/422,156	04/24/2003	Shojiro Kawakami	FUK-105

CONFIRMATION NO. 6821

OC000000020756982

OC000000020756982

00466
YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

Date Mailed: 10/10/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2006.

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.

IRVIN DINGLE
OP (571) 272-3210

ATTORNEY/APPLICANT 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
10/422,156	04/24/2003	Shojiro Kawakami	FUK-105

CONFIRMATION NO. 6821

OC000000020756981

OC000000020756981

22855
RANDALL J. KNUTH P.C.
1507 YUMA CT
MUFREESBORO, TN 37129

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

COPY MAILED
APR 1 1 2005
OFFICE OF PETITIONS

In re Application of :
Guire, et al. :
Application No. 10/422,160 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. 9896.119.1.1.1 :
For: LATENT REACTIVE BLOOD
COMPATIBLE AGENTS

This is a decision on the petition under 37 CFR 1.137(b), filed on October 25, 2004 (certificate of mailing date October 22, 2004) to revive the above-identified application. The Office apologizes for the delay in addressing this petition.

The above-identified application became abandoned for failure to reply in a timely manner to the April 5, 2004 final Office action which set an extendable three (3) month period for reply. An amendment, filed on July 6, 2004 (certificate of mailing date July 1, 2004), failed to place this application in *prima facie* condition for allowance, as was explained in the Advisory Action, mailed August 10, 2004. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no further reply being received in the Office, this application became abandoned on July 6, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners have submitted an amendment in response to the April 5, 2004 final Office action that *prima facie* places the application in condition for allowance, an acceptable statement of the unintentional nature of the delay in responding to the April 5, 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 1600 for further processing.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

COPY MAILED
AUG 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Egbert CLASSEN	:	DECISION ON PETITIONS
Application No. 10/422,210	:	UNDER 37 CFR 1.183 AND
Filed: April 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P12028WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, 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/EP01/12365, filed October 25, 2001, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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 David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1751 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Rudiger EIERMANN	:	DECISION ON PETITIONS
Application No. 10/422,211	:	UNDER 37 CFR 1.183 AND
Filed: April 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P13008WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, 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/EP01/11527, filed October 5, 2001, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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 David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,211	04/24/2003	1746	880	2000P13008WOUS		20	3

CONFIRMATION NO. 7782

CORRECTED FILING RECEIPT

OC000000019495718

000046726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 07/06/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rudiger Eiermann, Syrgenstein, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/11527 10/05/2001

Foreign Applications

GERMANY 10053220.9 10/26/2000
If Required, Foreign Filing License Granted: 06/23/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/422,211

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and device for determining the deposits of components from a liquid on surfaces, in particular liquid pumping machines

Preliminary Class

134

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED
NOV 28 2007
OFFICE OF PETITIONS

In re Application of	:	
Roman et al.	:	
Application No.: 10/422212	:	ON PETITION
Filing or 371(c) Date: 04/23/2003	:	
Attorney Docket Number: 060937-0187-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 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 submit corrected drawings on or before January 27, 2006, as required by the Notice of Allowability, mailed October 27, 2005. Accordingly, the date of abandonment of this application is January 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3) above.

Regarding item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. A statement of unintentional delay that tracks the language of the regulation is required.

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 concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED

APR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Roman et al. :
Application No.: 10/422212 : ON PETITION
Filing or 371(c) Date: 04/23/2003 :
Attorney Docket Number: 060937-0187-US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected drawings on or before January 27, 2006, as required by the Notice of Allowability, mailed October 27, 2005. Accordingly, the date of abandonment of this application is January 28, 2006.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings[1]; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions

[1] The issue and publication fees were filed on January 27, 2006.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS, LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 2004

COPY MAILED

OCT 06 2008

OFFICE OF PETITIONS

In re Application of :
ROMAN, et al. :
Application No. 10/422,212 : DECISION ON PETITION TO
Filed: April 23, 2003 : WITHDRAW FROM RECORD
Attorney Docket No. 060937-0187US :

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 30, 2008.

The request is NOT APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the requesting attorney's customer number 09629 is not that originally appoint by the oath or declaration. A request to withdraw by customer number when the oath/declaration appoints a different customer number or individually appointed attorneys can not be approved.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: JAMES S. MCDONALD
101 MASSAPOAG AVENUE
SHARON, MA 02067

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
AUG 0 7 2006
OFFICE OF PETITIONS

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Wolfgang MUCKE et al.	:	DECISION ON PETITIONS
Application No. 10/422,224	:	UNDER 37 CFR 1.183 AND
Filed: April 24, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P12017WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, 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/EP01/11849, filed October 12, 2001, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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 David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3742 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,224	04/24/2003	3742	1280	2000P12017WOUS	2	19	3

CONFIRMATION NO. 6694

CORRECTED FILING RECEIPT

OC000000019911517

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 08/04/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Wolfgang Mucke, Berlin, GERMANY;
Bert Peters, Berlin, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/11849 10/12/2001

Foreign Applications

GERMANY 10053415.5 10/27/2000
If Required, Foreign Filing License Granted: 06/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/422,224

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electric heating body

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 06/08/2010

Applicant	: Arnold Stamler	: DECISION ON REQUEST FOR
Patent Number	: 7631055	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/422,227	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1113** 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.