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NOV 16 2005

Iwei Technology Co., Ltd.
P.O. Box No. 6-57, Junghe
Taipei 235, Taiwan, R.O.C.

In re Application of:
I-Chang Chang
Serial No.: 10/422,240
Filed: May 21, 2003
For: **NON-POLARITY CHARGING DEVICE**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed May 06, 2005, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on June 16, 2004. A Notice of Abandonment was mailed on October 27, 2004.

Petitioner asserts that the Notice of Allowance mailed on June 16, 2004, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notice of Allowance was not received. Included with the statement are with copies of the docket records where the Notice of Allowance would have been entered were also included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is accompanied by a showing that establishes non-receipt of the Notice of Allowance mailed June 16, 2004. As such, the petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

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

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SEP 15 2004

In re Application of	:	
Kenneth H. Reiker	:	
Application No. 10/422,256	:	DECISION ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. 2001-1980=B1	:	

This is a decision on the petition to make special filed on April 24, 2004. The petition is based upon the practice described in MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in MPEP § 708.02(VI) is deemed to satisfy all of the requirements therefore. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3753 is being informed of this decision, and will advise the examiner to take future action consistent therewith. The granting of this petition is not to be construed as an endorsement of the allegations contained in the petition.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

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DIW 08-03

Paper No. 6

ERWIN J. BASINSKI
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED

SEP 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Butler et al.	:	
Application No. 10/422,257	:	DECISION DISMISSING
Filed: 23 April, 2003	:	PETITION
Attorney's Docket No. 426882004600	:	

This is a decision on the petition filed on 2 July, 2003 (certificate of mailing date 23 April, 2003), under 37 CFR 1.183, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the deletion of Bruce Parent (Parent) as a joint inventor, and (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

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. FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48, and 1.183."

The above-identified application was filed on 23 April, 2003, with a declaration naming Scott T. Butler, Dennis B. Karbach, Michael J. Wilson, Mark Boudreau, Paul M. Brown, John Fotheringham, Richard W. Steinke, Alden Cuddihey, Bruce A. Parent, Ramneek Mahal, Sinisa Aleksa, Jane R. Schanz, and Ann K. English as joint inventors and signed by all inventors except joint inventor Parent. Accordingly, on 23 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration signed by the ninth named inventor (Parent) and a surcharge of $130.00 for its late filing.

In response, on 2 July, 2003 (certificate of mailing 23 April, 2003), petitioners filed the present petition. Petitioners request that Parent be deleted as an inventor, and that 37 CFR 1.63 and 1.67 be waived in that the remaining inventors must execute an oath or declaration naming the actual inventors.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) the written consent of any assignee, if any of the originally named inventors has executed an assignment.

The petition lacks items (1), (2), and (4).

In response to item (1), the petition lacks a statement of lack of deceptive intention on the part of Parent, the inventor being deleted. Although joint inventor Parent has executed an affidavit stating that he "had no part" in the invention, the affidavit lacks the statement of lack of deceptive intention required by 37 CFR 1.48(a)(1). Any renewed petition should be accompanied by the required statement made by joint inventor Parent.

In response to item (2), an oath or declaration by each of the actual inventors is required by 37 CFR 1.63 and 1.67. As petitioners have requested waiver of this provision under 37 CFR 1.183, the petition for waiver is discussed *infra*.

In response to item (4), petitioners must provide the written consent of any assignee to the change in inventorship. If the application has not been assigned, petitioners should so state in any renewed petition.

Petition Under 37 CFR 1.183 to Waive 37 CFR 1.63

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventors is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

The petition is deficient in that it does not adequately show or provide proof (a) that a copy of the application (specification, claims, drawings, and the new oath or declaration listing the actual inventors) was sent or given to each signing inventor, and (b) that any of the signing inventors refused to sign the new declaration after receipt thereof. The showing of record is merely that the petitioners believe it may be difficult or inconvenient to obtain the signatures of the actual inventors on a new declaration. Such does not constitute extraordinary circumstances where justice requires waiver of the rules. Petitioners must attempt to obtain the signature of each inventor, and a waiver will only be granted as to those inventor(s), if any, who refuse to sign the new declaration or cannot be located after having been sent or given a copy of the application papers and the new declaration naming the actual inventors.

Petitioners should sent a copy of the application papers (specification, including the claims, drawings, if any, and the new declaration) to each inventor with a request that the inventor sign and return the declaration. If any inventors refuse to sign the declaration, petitioners may show that the application was sent or given by providing a copy of the cover letter transmitting the application papers and new declaration to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details. If there is a written refusal, petitioners should

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[1] MPEP 201.03(B).

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 facts.

It is also noted that the declaration filed with the application papers is defective in that it contains non initialed and/or non-dated alterations.[2] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[3]

Counsel's deposit account, 03-1952, will be charged the late filing fee or oath or declaration surcharge of $130.00 as authorized in the present petition. Counsel's deposit account will also be charged $130.00 for the petition under 37 CFR 1.48(a), for a total of $260.00.

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 concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood, at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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[2] See 37 CFR 1.52(c).

[3] 37 CFR 1.67(a)(2).

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Paper No. 7

ERWIN J. BASINSKI
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Butler et al.	:	CORRECTED
Application No. 10/422,257	:	DECISION DISMISSING
Filed: 23 April, 2003	:	PETITION
Attorney's Docket No. 426882004600	:	

This is a corrected decision on the petition filed on 2 July, 2003 (certificate of mailing date 23 April, 2003), under 37 CFR 1.183, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the deletion of Bruce Parent (Parent) as a joint inventor, and (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of the decision mailed on **4 September, 2003**. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48, and 1.183."

The above-identified application was filed on 23 April, 2003, with a declaration naming Scott T. Butler, Dennis B. Karbach, Michael J. Wilson, Mark Boudreau, Paul M. Brown, John Fotheringham, Richard W. Steinke, Alden Cuddihey, Bruce A. Parent, Ramneek Mahal, Sinisa Aleksa, Jane R. Schanz, and Ann K. English as joint inventors and signed by all inventors except joint inventor Parent. Accordingly, on 23 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration signed by the ninth named inventor (Parent) and a surcharge of $130.00 for its late filing.

In response, on 2 July, 2003 (certificate of mailing 23 April, 2003), petitioners filed the present petition. Petitioners request that Parent be deleted as an inventor, and that 37 CFR 1.63 and 1.67 be waived in that the remaining inventors must execute an oath or declaration naming the actual inventors.

Notice of Defective Fee Authorization

Upon review of Office records, the individual who signed the present petition, registered patent attorney Erwin J. Basinski, is not an authorized user of the deposit account provided, No. 03-1952. As such, the Office cannot charge the required petition fee of $260.00 for the late filing fee or declaration surcharge and the petition fee. Payment of the petition fee is a prerequisite for consideration of the petition. As such, any renewed petition must include payment of the fee indicated above.

Petition Under 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47;

(3) the fee set forth in 37 CFR 1.17(I); and

(4) the written consent of any assignee, if any of the originally named inventors has executed an assignment.

The petition lacks items (1), (2), (3) and (4).

In response to item (1), the petition lacks a statement of lack of deceptive intention on the part of Parent, the inventor being deleted. Although joint inventor Parent has executed an affidavit stating that he "had no part" in the invention, the affidavit lacks the statement of lack of deceptive intention required by 37 CFR 1.48(a)(1). Any renewed petition should be accompanied by the required statement made by joint inventor Parent.

In response to item (2), an oath or declaration by each of the actual inventors is required by 37 CFR 1.63 and 1.67. As petitioners have requested waiver of this provision under 37 CFR 1.183, the petition for waiver is discussed *infra*.

In response to item (3), a review of Office records indicates the attorney who signed the present petition, Erwin J. Basinski, is not authorized to utilize Deposit Account No. 03-1952. Therefore, the Office cannot charge the required petition fee. Any renewed petition must include authorization to charge a deposit account and by signed by an individual authorized for that deposit account or otherwise include the proper payment.

In response to item (4), petitioners must provide the written consent of any assignee to the change in inventorship. If the application has not been assigned, petitioners should so state in any renewed petition.

Petition Under 37 CFR 1.183 to Waive 37 CFR 1.63

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

Petitioners must show that the inability to obtain the statement from the inventors is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

The petition is deficient in that it does not adequately show or provide proof (a) that a copy of the application (specification, claims, drawings, and the new oath or declaration listing the actual inventors) was sent or given to each signing inventor, and (b) that any of the signing inventors refused to sign the new declaration after receipt thereof. The showing of record is merely that the petitioners believe it may be difficult or inconvenient to obtain the signatures of the actual inventors on a new declaration. Such does not constitute extraordinary

[1] MPEP 201.03(B).

circumstances where justice requires waiver of the rules. Petitioners must attempt to obtain the signature of each inventor, and a waiver will only be granted as to those inventor(s), if any, who refuse to sign the new declaration or cannot be located after having been sent or given a copy of the application papers and the new declaration naming the actual inventors.

Petitioners should sent a copy of the application papers (specification, including the claims, drawings, if any, and the new declaration) to each inventor with a request that the inventor sign and return the declaration. If any inventors refuse to sign the declaration, petitioners may show that the application was sent or given by providing a copy of the cover letter transmitting the application papers and new declaration to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details. If there is a written refusal, petitioners should 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 facts.

It is also noted that the declaration filed with the application papers is defective in that it contains non initialed and/or non-dated alterations.[2] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[3]

Additionally, as stated above, the USPTO is unable to charge the petition fee to counsel's deposit account because the petition was not signed by an individual authorized as a user of said deposit account. Any renewed petition must include a proper fee authorization or payment.

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

---

[2] See 37 CFR 1.52(c).

[3] 37 CFR 1.67(a)(2).

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 matter may be directed to Senior Petitions Attorney Douglas I. Wood, at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 11

ERWIN J. BASINSKI
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Butler et al. : DECISION GRANTING PETITION
Application No. 10/422,257 :
Filed: 23 April, 2003 :
Attorney's Docket No. 426882004600 :

This is a decision on the renewed petition filed on 4 February, 2004, under 37 CFR 1.47, 1.48, and 1.183, which is being treated as (1) a petition under under 37 CFR to waive rule 37 CFR 1.48(a) to amend the inventive entity by the deletion of Bruce Parent (Parent) as a joint inventor, and (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a) is **GRANTED**.

The petition under 37 CFR 1.183 to waive 1.63 and 1.67 is **GRANTED**.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48(a)

Petitioners have now provided a statement by the inventor being deleted that the error in inventorship was made without deceptive intent. Furthermore, as described *infra,* it is agreed that justice would be served by waiving the requirement that an oath or declaration by made by each the requirement for a an oath or declaration in compliance with 37 CFR 1.183 In view of the efforts recounted in the petition to obtain the signatures of John Fortheringham and Ann K. English, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48(a).

As such, as a result of the papers filed on 3 January, 2001, it

has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2). The inventorship of this application has been changed by the deletion of Bruce A. Parent, Mississauga, Ontario, Canada.

In accepting this petition, the Office is construing the Consent of Assignee to mean that the individual signing on behalf of assignee Accenture, Inc., William F. Morris, Country Managing Director, is authorized to sign on behalf therof. Petitioners must inform the Office if this is not a corrected interpretation.

Petition Under 37 CFR 1.183 to waive 1.63 and 1.67

As described, *supra*, in view of the efforts recounted in the petition to obtain the signatures of John Fotherington and Ann K. English on the supplemental declaration naming the actual inventors, it is agreed that justice would be served by waiving the requirement for their signature on the supplemental declaration filed on 4 February, 2004.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The inventorship has been corrected in USPTO records, and a corrected Filing Receipt is enclosed for petitioners' records.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 703.308.6918.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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PETER VERNY JONES SCHMITT & ASTON LLP
425 SHERMAN AVENUE
SUITE 230
PALO ALTO, CA 94306

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Tabassum Naqvi et al	:	DECISION ON PETITION
Application No. 10/422,262	:	UNDER 37 CFR 1.137(b)
Filed: April 24, 2003	:	
Attorney Docket No. 3817.11-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue fee of $700 and the publication fee of $300 on or before August 19, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed May 19, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the issue and publication fees, the petition fee of $750, and the required statement of unintentional delay have been submitted. Accordingly, the submission of the issue and publication fees is is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/7/07

Paper No.: ____

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10422262 Patent No.: 7135325 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

OC

Comments: _____

SPE

1652
Art Unit

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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-1 050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,135,325 B2
APPLICATION NO. : 10/422,262
ISSUE DATE : November 14, 2006
INVENTOR(S) : Tabassum Naqvi, et al..

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

Column 12,

Line 4, delete --"dry" – after the word "of" and before the word "acetonitrile".

Sheet 3 of 7, FIG. 3.

Remove the --"0)-- next to the first bar graph on the histogram.

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

David J. Aston
PETERS, VERNY, JONES, SCHMITT & ASTON, LLP
425 Sherman Avenue, Suite 230
Palo Alto, CA 94306

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.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,265	04/24/2003	3746	1236	13DV-14062	21	47	1

CONFIRMATION NO. 6808

30503
STEVEN J. ROSEN, PATENT ATTORNEY
4729 CORNELL RD.
CINCINNATI, OH 45241

CORRECTED FILING RECEIPT

OC000000011098266

Date Mailed: 10/27/2003

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

Applicant(s)

Alfred Albert Mancini, Cincinnati, OH;
Duane Douglas Thomsen, Loveland, OH;
Michael Louis Vermeersch, Hamilton, OH;

Domestic Priority data as claimed by applicant

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

Title

Differential pressure induced purging fuel injector with asymmetric cyclone

Preliminary Class

060

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

GRANTED

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

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

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

NOT GRANTED

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

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Thomas J. Tighe, Esq.
Suite 103
6265 Greenwich Drive
San Diego CA 92122

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of

Todd Jones

Application No. 10/422,319

Filed: April 23, 2003

Attorney Docket No. 5288 PA02

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed March 22, 2006, 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 June 23, 2006. A Notice of Abandonment was mailed on October 19, 2006.

The Request for Continued Examination filed October 10, 2008, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3723 for further processing.

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

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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10350 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

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OFFICE OF PETITIONS

In re Application of :
Duggal, et al. :
Filed: April 24, 2003 : ON PETITION
Application No. 10/422,323 :
Attorney Docket No.: PC19102A :

This is a decision on the petition under 37 CFR 1.182, filed August 16, 2004, to correct inventor name.

The petition is **GRANTED**.

Petitioner requests that the inventor name be corrected from WEIDONG ZHAO to WEIDONG HAO.

The petition includes the required petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, along with a certified copy of the court order. Accordingly, the above-identified application complies with current Office procedures to effect a correction of inventor name.

This application is being forwarded to Technology Center ("TC") 1600 for correction to the PALM bib-data sheet by the TC's technical support staff.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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DEC 14 2004

OFFICE OF PETITIONS

Applicant: Mesce et al.
Appl. No.: 10/422,347
Filing Date: April 24, 2003
Title: METHODS FOR IDENTIFYING AND USING INSECTICIDES
Attorney Docket No.: 110.01850101
Pub. No.: US 2004/0033536 A1
Pub. Date: February 19, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 18, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains many typographical errors, as "(L/l)" is misspelled as "(L/1)" eight times throughout the specification and claims.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . .. 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 typographical errors wherein "(L/l)" is misspelled as "(L/1)" are Office errors, but they are minor typographical errors which are understandable from reading the sentence, paragraph and specification in which the terms are used, as terms are not read in a vacuum. The mistakes do 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. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004. To further reduce the likelihood of these types of errors, applicant should file application papers with cleaner text.

The applicant is advised that a "request for republication of an application previously published"

[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).

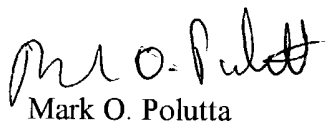
may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request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

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

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

By facsimile: 703-872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



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

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of Wilson et al. :
Application No. 10/422,359 : DECISION ON PETITION
Filing Date: April 23, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PA3623US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 20, 2008, 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 11, 2007.*

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed 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 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.

The petition is not accompanied by a separate amendment. Therefore, this decision is based on the amendment filed May 11, 2007.

This application is being forwarded to Technology Center Art Unit 2455 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 (10/197,393). The priority claim is included as part of the amendment filed May 11, 2007.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/422,359	04/23/2003	2455	1170	PA3623US	25	3

CONFIRMATION NO. 8329

CORRECTED FILING RECEIPT

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

OC000000033723580

Date Mailed: 12/19/2008

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)

Brian K. Wilson, Palo Alto, CA;
David A. Koblas, Los Altos, CA;
Scott D. Eikenberry, Menlo Park, CA;
Paul R. Wieneke, Los Altos, CA;
Damon K. Uyeda, San Francisco, CA;
Tim Nufire, San Francisco, CA;
Jonathan J. Oliver, San Carlos, CA;

Assignment For Published Patent Application

MailFrontier, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 22830

Domestic Priority data as claimed by applicant

This application is a CIP of 10/197,393 07/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/27/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/422,359**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

MESSAGE TESTING

Preliminary Class

709

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

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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J. NEVIN SHAFFER, JR.
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GULF BREEZE, FL 32561

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JUN 24 2005

OFFICE OF PETITIONS

In re Application of :
Joseph L. Sclease et al :
Application No. 10/422,371 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. 100-1200 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on June 9, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3723.

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

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MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of
Lance HOBROCK, *et al.*
Application No. 10/422,376
Filed: April 24, 2003
Attorney Docket No. GIC-678

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed on May 4, 2005, which set a shortened statutory period for reply of three (3) months. Petitioner has obtained a one (1) month extension of time under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned, by operation of law, on September 5, 2005. A Notice of Abandonment was mailed on February 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, a Request for Continued Examination (RCE) under 37 CFR 1.114, and the $790 filing fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the final Office action of May 4, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re* Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the instant petition on March 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account No. 50-2117.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

Application No. 10/422,376

The application file is being referred to Technology Center AU 2134 for appropriate action on the RCE and concurrently filed amendment(s).

David Bucci
Petitions Examiner
Office of Petitions

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20 North Wacker Drive
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of
Richard L. Mueller JR, *et al.*
Application No. 10/422,381
Filed: April 24, 2003
Attorney Docket No. ACU-122

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on March 23, 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, by operation of law, on June 24, 2005. A Notice of Abandonment was mailed on September 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of March 23, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3736 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Nigel King	: DECISION ON REQUEST FOR
Patent Number	: 7664664	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,390	: 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 **1734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 530
LAS VEGAS NV 89128

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OFFICE OF PETITIONS

In re Application of :
Bradley G. Ward et al. :
Application No. 10/422,395 : DECISION ON PETITION
Filed: April 23, 2003 :
Attorney Docket No. GTREE.0002P :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR §41.50(a)(2) to the Supplemental Examiner Answer of June 1, 2006, in which 37 CFR §41.50(a)(2) set a shortened statutory period of two (2) months. The proposed reply required for consideration of a petition to revive must be 1) a request to reopening prosecution, or 2) filing a reply brief of the Supplemental Examiner's Answer. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 2, 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 reply brief; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the reply brief filed March 14, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052, or in his absence to the undersigned 571-272-7099.

This application is being referred to Technology Center AU 3711 to note the reply brief and forward the case to the BOARD OF PATENT APPEALS AND INTERFERNCE for consideration in due course.

David Bucci
Petitions Examiner
Office of Petitions

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

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Gu et al. :
Application No. 10/422,401 : Decision on Petition
Filed: April 24, 2003 :
Attorney Docket No. 6921.US.O2 :

This a decision on the petition under 37 CFR 1.137(b), filed January 7, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed May 18, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 19, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition fee of $1,500 has been charged to petitioner's deposit account.

Technology Center Art Unit 1623 will be informed the application has been revived and will consider the papers filed with the petition in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HOWREY, LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Patent No. 6,909,532 :
Issue Date: June 21, 2005 :
Application No. 10/422,413 : NOTICE
Filed: April 23, 2003 :
Patentee(s): Jerry Chung, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on May 3, 2010.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Timothy N. Trop
TROP, PRUNER & HU, P.C.
STE 100
8554 KATY FWY
HOUSTON TX 77024-1841

AUG 01 2005

In re Application of: Grant M Kloster, et al
Application No. 10/422,432
Filed: April 24, 2003
Attorney Docket No. ITL.0949 US (P15973)

Decision on Petition

This is a decision on the petition filed under 37 C.F.R. § 1.181 and MPEP 1002.02 (c) 3 (a) on June 23, 2005 to withdraw the finality of previous office action.

The petition is GRANTED.

According to MPEP 706.07(a):

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

The application file will be forwarded to the Technical Support staff for Technology Center 2800. The final rejection mailed April 20,2005 will be vacated. Then, the application will be forwarded to the examiner for continued prosecution on the merits.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical Systems and Components

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Johannes GEYER et al. : DECISION ON PETITIONS
Application No. 10/422,436 : UNDER 37 CFR 1.183 AND
Filed: April 24, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P12022WOUS :

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/EP01/11848, 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.

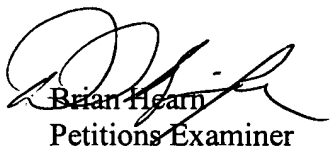
All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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 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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,436	04/24/2003	1746	880	2000P12022WOUS	2	16	2

CONFIRMATION NO. 6383

000046726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000019495918

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)

Johannes Geyer, Haar, GERMANY;
Wilfried Kluge, Bornicke, GERMANY;
Wolfgang Held, Bornicke, 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/EP01/11848 10/12/2001

Foreign Applications

GERMANY 10053413.9 10/27/2000

If Required, Foreign Filing License Granted: 06/20/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/422,436

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Porthole door for a front-loading drum washing machine

Preliminary Class

068

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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HOUSTON TX 77056-3000

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of :
Bruce Lauderdale et al :
Application No. 10/422,441 : DECISION GRANTING PETITION
Filed: April 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2718/030006 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of November 9, 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 2875.

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

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05 JAN 2006

Patent Administrator
FMC Corporation
1735 Market Street
Philadelphia, PA 19103

In re Application of	:	
LYNCH	:	DECISION
Application No.: 10/422,449	:	
Filing Date: April 24, 2003	:	ON PETITION
Attorney's Docket No.: 60271-USA	:	
For: AIR TREATMENT GEL AND METHOD FOR ITS PREPARATION	:	UNDER 37 CFR 1.181

This decision is in response to the paper entitled "PETITION TO WITHDRAW HOLDING OF ABANDONMENT -- OFFICE ACTION NOT RECEIVED" filed October 08, 2004, which has been treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition is DISMISSED without prejudice.

BACKGROUND

On April 24, 2003, applicant filed the present application, which was accompanied by an unexecuted declaration.

On June 20, 2003, the USPTO mailed a Notice to File Missing Parts of Nonprovisional Application indicating the applicant must file an oath or declaration and a surcharge for providing the oath or declaration. The Notice set a two-month period in which to respond.

On September 03, 2004 the USPTO mailed a Notice of Abandonment indicating a reply was not received to the Notice to File Missing Parts mailed on June 6, 2003.

On October 08, 2004, applicant filed the present petition to withdraw the holding of abandonment, an executed declaration and the required surcharge.

On November 09, 2004, the USPTO mailed a notice withdrawing the Notice of Abandonment.

DISCUSSION

The petition was never acted upon by the USPTO. Accordingly, the November 2004 Notice withdrawing the Notice of Abandonment is hereby VACATED.

The petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in view of the revised policy published at 1156 OG 53, **Withdrawing the Holding of Abandonment When Office Actions Are Not Received**. The showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for when the response is due. Thus, the required evidence is the docket report for the time period of August 20, 2003 (when the oath or declaration and surcharge was due).

Petitioner has not presented a copy of the docket records, i.e. the firm's docket record for all cases due on the response date August 20, 2003. The "docket report" offered by petitioner as evidence is a single sheet having showing only the above-identified application on the sheet.

CONCLUSION

The petition under 37 CFR 1.181 for a refund is DISMISSED without prejudice.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

15 JUN 2006

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Patent Administrator
FMC Corporation
1735 Market Street
Philadelphia PA 19103

In re Application of	:	
LYNCH	:	
Application No.: 10/422,449	:	DECISION
Filing Date: April 24, 2003	:	
Attorney's Docket No.: 60271-USA	:	
For: AIR TREATMENT GEL AND METHOD	:	
FOR ITS PREPARATION	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 06 March 2006.

BACKGROUND

On April 24, 2003, applicant filed the present application which was accompanied by an unexecuted declaration.

On June 20, 2003, the USPTO mailed a Notice to File Missing Parts of Nonprovisional Application indicating the applicant must file an oath or declaration and a surcharge for providing the oath or declaration. The Notice set a two-month period in which to respond.

On September 03, 2004, the USPTO mailed a Notice of Abandonment indicating a reply was not received to the Notice to File Missing Parts mailed on June 6, 2003.

On October 08, 2004, applicant filed a petition to withdraw the holding of abandonment, an executed declaration and the required surcharge.

On November 09, 2004, the USPTO mailed a notice withdrawing the Notice of Abandonment.

On January 05, 2006, the USPTO mailed a decision on applicant's petition to withdraw the holding of abandonment. The decision dismissed applicant's petition without prejudice and also vacated the notice mailed November 09, 2004 withdrawing the Notice of Abandonment. The decision indicated that applicant had not provided a copy of the docket record for all cases due on the response date August 20, 2003.

On March 06, 2006, applicant submitted the instant "RENEWED PETITION UNDER 37 CFR 1.181" which was accompanied by a copy of the docket record for all cases due on the response date August 20, 2003.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that "[f]or 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." Such a docket record has been provided. Thus, item (3) has been met as well. Accordingly, the Notice of Abandonment mailed September 03, 2004 is hereby VACATED.

CONCLUSION

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Sankara R. Bhogi	: DECISION ON REQUEST FOR
Patent Number	: 7610305	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,452	: 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 **1793** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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(F/K/A WORKMAN NYDEGGER &
SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE, CITY UT 84111

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of

Gentiey, et al.

Application No. 10/422,456

Filed: May 24, 2003

Attorney Docket No. 15436.180

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

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

This application was held abandoned for failure to provide timely notification of a foreign filing within in the time period prescribed by 35 U.S.C. § 122(B)(2)(B)(iii). A Notice of Abandonment was mailed on November 14, 2004. The instant petition was filed on February 1, 2005. Petitioner maintains that a notification under 35 U.S.C. § 122(B)(2)(B)(iii) was filed on April 27, 2004, which was within 45 days of the filing of the PCT application on April 26, 2004.The petition was accompanied by a copy of an itemized Office date-stamped postcard whereby the USPTO acknowledged receipt of a "Notification under 35 U.S.C. § 122(B)(2)(B)(iii)" on April 27, 2004.

A review of the application file did not reveal an appropriate notification under 35 U.S.C. § 122(B)(2)(B)(iii) as having been filed on April 27, 2004. The evidence is convincing, however, that a proper notification under 35 U.S.C. § 122(B)(2)(B)(iii) was timely received. It is therefore, concluded that the holding of abandonment was improper; the holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 2100, GAU 2133, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Communication Regarding Recession of Nonpublication Request and/or Notice of Foreign Filing"

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HASSE & NESBITT, LLC
7550 CENTRAL PARK BLVD.,
MASON, OH 45040

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Anthony Choi :
Application No. 10/422,485 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. CHMC4.001A-DV :

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The Office also acknowledges receipt of an amendment, a specification, one (1) sheet of replacement drawing containing Figure 1, and $510 for a three (3) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

This application is being revived for consideration of the RCE.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed September 28, 2005 has been accepted and made of record.

The application file is being referred to Technology Center Art Unit 1648.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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DRW May-06

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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OFFICE OF PETITIONS

In re Application of :
Vijayan Rajan : DECISION ON PETITION
Application No. 10/422,494 :
Filed: 24 April, 2003 :
Atty Docket No. 112056-0075 :

This is a decision on the petition filed on 6 May, 2005, to withdraw the holding of abandonment, and, alternatively, under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

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

The application became abandoned on 20 August, 2003, for failure to timely file replacement drawings as required by the Notice to File Missing Parts Mailed on 19 June, 2003, which set a two (2) month shortened period for reply. On 10 October, 2003,

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

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

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

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

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

petitioner filed a declaration and a two (2) month extension of time as required by the Notice mailed on 19 June, 2003. Notice of Abandonment was mailed on 21 April, 2005.

Petitioner concedes that the drawings were omitted, but petitions for withdrawal of the holding of abandonment on the basis that the papers filed on 10 October, 2003, constituted a *bona fide* reply in compliance with 37 CFR 1.135(c) to the Notice mailed on 19 June, 2003.

Petitioner's argument has been considered, but is not persuasive. At the outset, the reply filed on 10 October, 2003, was not in response to a non-final Office action. Additionally, additionally, 37 CFR 1.135(c) states that applicant **may** be given a new time period for reply. While the Office attempts to notify applicants of deficiencies in their responses in a manner permitting timely correction, the Office has no duty to do so.[2]

As such, petitioner concededly received the Notice mailed on 19 June, 2003, but failed to provide the necessary and timely reply. The failure to supply the proper reply was the fault of petitioner, not the USPTO. As noted in *Brenner v. Ebbert*:[3]

> The Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

It follows that petitioner had received the reasonable notice required so as to ensure a timely and full response to the Notice to File Missing Parts. That petitioner failed to timely and adequately respond was unfortunate, but such failure did not operate to save this application from abandonment.[4]

As petitioner failed to properly response to the Notice, the application was properly held abandoned. As such the petition to withdraw the holding of abandonment is dismissed.

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

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[2] **Error! Main Document Only.**See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[3] 398 F.2d 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), cert. den. 159 USPQ 799.

[4] Id.

This application is being referred to Technology Center Art Unit 2187 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 : August 23, 2006

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/422495 patent No.: 7,033,750

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: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

10/3/06

SPE **Art Unit**

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ALEXANDRIA, VA 22313-1450
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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of:
David B. Glasco
Application No. 10/422,514
Filed: September 11, 2003
Title of Invention:
ANGULARLY ADJUSTABLE
ILLUMINATED SPOILER

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the 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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found 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 as provided

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

by 35 USC 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 Communication Regarding Rescission of Nonpublication Request, indicating a projected publication date of May 26, 2005, accompanies the present petition.

This application is being referred to the Publishing Division for publishing of the application in due course.

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

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request

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.
10/422,514	04/24/2003	David B. Glasco	NWISP032

CONFIRMATION NO. 6344

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

OC000000016688948

Date Mailed: 08/04/2005

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/10/2005.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Commissioner for Patents
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DEC 23 2005

OFFICE OF PETITIONS

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown NY 10591

In re Application of :
PAUSER :
Application No. 10/422,520 :
Filed: April 24, 2003 :
Attorney Docket No. AT 020022 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final office action mailed April 5, 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 July 6, 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 Response and Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of April 5, 2005 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the 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 petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Office records also reflect a Change of Correspondence Address was faxed on October 13, 2005, indicating Peter Zawilski is an attorney or agent of record. As explained above, Mr. Zawilski has not been given power of attorney or authorization of agent to prosecute the application. Thus pursuant to 37 CFR 1.33, the change of address cannot be accepted at this time. See 37 CFR 1.33(a)(2).

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 1772 for further processing.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: Peter Zawilski
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, CA 95131

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MAY - 4 2007

Todd Volyn
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933

In re Application of :
Wang, Yixin :
Serial No. 10/422,522 : Decision on Petition
Filed: April 24, 2003 :
Attorney Docket No. CDS 5007 USNP :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on March 1, 2007 requesting withdrawal of the restriction requirement. It is assumed that the petition was meant to be filed under 37 C.F.R. 1.144; it has been considered as such.

BACKGROUND

On March 15, 2006, the examiner mailed a restriction requirement in which the original claims 1-36 were divided in 280 groups corresponding to 5 general categories and 56 specific sequences.
On May 26, 2006, Applicants elected with traverse stating that the claims are directed to methods and articles providing a prognosis for breast cancer using a group of genes. The response asserts that the claims are not drawn to the identification of one or another of the 56 genes but insists that the identification of all 56 genes is required.

On August 8, 2006, the examiner mailed a non-compliant amendment letter for errors in the status identifiers and claim dependencies. On 27 November 2006, the examiner mailed a communication requesting applicants to elect a single sequence for examination.

On December 5, 2006, applicants responded by amending Claim 5 to be drawn to a method of assessing breast cancer status by identifying differential modulation of SEQ ID NO: 12.

On February 7, 2007, the examiner mailed to applicants a non-final Office action examining Claim 5. The Office Action Summary further indicates that Claims 57-77 and 70 are withdrawn.

from consideration, however, Claims 57-77 and 79 do not appear to have been presented in the instant application. Further, Claims 13-36 do not appear to have been identified as withdrawn from consideration by the examiner.

The examiner states that the claims have been amended to present one sequence reading on an individual gene and thus the traversal arguing that the claims are drawn to a combination of genes is not persuasive. The restriction requirement was made FINAL.

On March 1, 2007, applicants filed this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

The petition asserts the case is drawn to the set or group of genes called a gene expression portfolio. The set requires the 56 genes that are identified.

Applicant may pursue a single combination of nucleotide molecules. The petition argues that the specification provides data to show a surprisingly strong ability to provide a prognosis based on the group of genes, not individual genes. Thus, applicants argue the invention lies in the set of genes of SEQ ID NO 1-56 and not in the individual genes proposed by the examiner. Because the original restriction requirement required applicant to pick a single SEQ ID NO: for examination by restricting the application into 280 groups, applicants were not given the opportunity to pursue their invention as drafted.

DECISION

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

A claim drawn to a single combination of polynucleotide molecules requiring all of SEQ ID NO: 1-56 is permissible.

The Office action mailed 7 February 2007 and the restriction requirement mailed 15 March 2006 have been vacated.

Applicants are given one month to re-present a claim directed to their combination as originally claimed for examination. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If appropriate, upon review of the claims, the examiner may set forth a new restriction requirement in which all the claimed inventions are accounted for within the groupings.

Should there be any questions about this decision, please contact Special Program Examiner 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
jb/jg

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

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JUN 24 2005

OFFICE OF PETITIONS

In re Application of :
Jay M. Short :
Application No. 10/422,523 : ON PETITION
Filed: April 24, 2003 :
Atty Docket No. DIV-1460-15A (112766.285) :

This is a decision on the petition, filed April 18, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Calvin Fan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Fan desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application became abandoned for failure to reply in a timely manner to an Office action mailed June 30, 2004. A Notice of Abandonment was mailed on March 28, 2005. In response, on April 18, 2005, petitioner filed, *inter alia*, the present petition and an amendment.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being referred to Technology Center AU 1648 for consideration of the response filed April 18, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CALVIN FAN
P.O. BOX 910550
SAN DIEGO, CA 92191

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ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Brian Boesch, et al. :
Application No. 10/422,526 :
Filed: April 24, 2003 :
Attorney Docket No. 2598-002 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed December 7, 2004, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on April 24, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/375,031, which was filed on April 24, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

Accordingly, having found that the petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition is granted.

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 3632 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/375,031.

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

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

ATTACHMENT: Corrected Filing Receipt

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MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND OR 97205

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JUL 0 2 2004

OFFICE OF PETITIONS

Applicant: Sim et al.
Appl. No.: 10/422,534
Filed: April 23, 2003
Title: NEGATIVE VOLTAGE GENERATOR FOR A SEMICONDUCTOR MEMORY DEVICE
Attorney Docket No.: 9898-294
Pub. No.: US 2003/0197546 A1
Pub. Date: October 23, 2003

This is a decision to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on February 23, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication omits some of the continuity information on the front page of the publication.

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 February 24, 2004, was not timely filed under 37 CFR 1.221(b). Additionally, the patent application publication does not include a material error, as the application was properly published.

In order to make a late benefit claim to the earlier filed applications, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of the earlier filed applications. The petition must include 1) the surcharge ($1330) set forth in

[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).

37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.[2]

Applicant's request for a corrected patent application publication on February 24, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

[2]See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

AUG 0 2 2005

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

In re Application of	:	
CARTER ET AL.	:	
Serial No. 10/422,553	:	Decision on
Filed April 23, 2003	:	Petition
For: Precalibrated Inflation Device for Balloon Catheter	:	

A Notice of Abandonment for the above-identified application was mailed February 24, 2005. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on March 14, 2005. Applicant indicates that a timely filed amendment was received by USPTO and offers proof of a date stamped post card returned from USPTO. Further, a review of the file indicates that a response with extension of time was timely received and has been entered into the file.

In view of the above, the Notice of Abandonment mailed February 24, 2005 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 041604

Gerald H. Kiel
Reed Smith LLP
599 Lexington Avenue
New York, NY 10022

APR 27 2004

In re Application of:
GOBEL *et al.*
Serial No.: 10/422,558
Filed: April 24, 2003
Attorney Docket No.: **GK-ZEI-3115 Div**

DECISION ON PETITION

This is a decision on the communication filed January 27, 2004. The communication has been treated as a petition, under 37 C.F.R. § 1.181, to re-mail the last office action, due to non-receipt. No petition fee is required.

The petition is **GRANTED**.

A non-final Office action was mailed on October 17, 2003. In the absence of a timely filed response, and no extensions of time, the application would have been abandoned by operation of law at midnight on January 17, 2004.

Petitioner contends that the above-identified Office action was not received. To support the petition, petitioner states that the Office action was not received and that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's docket record was submitted with the petition.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition and supporting evidence satisfy the above-stated requirements. Accordingly, the petition is **granted**.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action dated October 17, 2003. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is re-mailed.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Janice A Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

OCT 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey Nause, et al. :
Application No. 10/422,568 : ON PETITION
Filed: April 23, 2003 :
Atty Docket No. 046361/260484 :

This is a decision on the petition, filed October 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 2824 for further processing of the request for continued examination under 37 CFR 1.114 filed October 8, 2004.

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

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

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Barnes & Thornburg
11 South Meridian
Indianapolis, IN 46204

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APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Brad C. Hansen :
Application No. 10/422,577 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on January 23, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on April 24, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3600.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/2007

TO SPE OF : ART UNIT **2600 (2627)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,885,528** (SN 10/122585)

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

Ok to enter changes to claims as requested in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

A. J. Kim

8/13/07

SPE Art

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **3/12/2007**

TO SPE OF : ART UNIT **2600 (2627)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,885,528** (SN 10/422585)

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

Ok to enter changes to claims as requested in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

[signature]

[signature] 8-13-07

SPE Art

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HOWREY, LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Patent No. 6,873,452 :
Issue Date: March 29, 2005 :
Application No. 10/422,608 : NOTICE
Filed: April 23, 2003 :
Patentee(s): Scott C-J Tseng, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on May 3, 2010.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

FILE COPY

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,623	04/24/2003	3712	1314	C01104.70123.US	5	43	3

CONFIRMATION NO. 6749

CORRECTED FILING RECEIPT

OC000000013713390

37462
LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

Date Mailed: 09/03/2004

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)

George G. Mueller, Boston, MA;
Ralph Osterhout, San Francisco, CA;
Kevin J. Dowling, Westford, MA;

Power of Attorney: The patent practitioners associated with Customer Number **37462**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/375,856 04/26/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/19/2003

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/422,623

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for enhancing inflatable devices

Preliminary Class

446

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 5

Bao Tran
Align Technology, Inc.
881 Martin Avenue
Santa Clara, CA 95050

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MAY 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Kaza et al. :
Application No. 10/422,627 : DECISION ON PETITION
Filed: April 23, 2003 :
Attorney Docket No. AT-000213 US :

This is a decision on the petition filed January 2, 2004, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

On July 8, 2003, a Notice to File Missing Parts of Application was mailed in the above-identified application. The Notice set a period for reply of two (2) months from the mail date of the Notice, with extensions of time obtainable under the provisions of 37 CFR 1.136(a).

On January 2, 2004, applicants filed the instant petition, with the response to the Notice and an authorization to charge any required fees to Deposit Account No. 50-1399.

However, a review of the application, response and Notice reveals that the application is not yet abandoned. As stated in MPEP 710.02(d),

> the 2-month time period for reply to A Notice to File Missing Parts of an Application is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions of time of up to 5 months under 37 CFR 1.136(a), followed by additional time under 37 CFR 1.136(b), when appropriate, are permitted.

Accordingly, the time period for reply to the Notice mailed July 8, 2003 extended to a maximum date of February 8, 2004 with a petition for extension of time (and fee) for response within the fifth month.

Thus, the response filed earlier, on January 2, 2004 is timely with a constructive petition for extension of time (and fee) for response within the fourth month. The $1480 extension fee has been charged to Deposit Account No. 50-1399.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for processing of the response filed January 2, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

ERIC B. MEYERTONS
MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Stephan L. Wahlbin :
Application No. 10/422,632 :
Filed: April 24, 2003 : Decision on Petition
Attorney Docket Number: :
5053-6300 :

This is a decision in response the Petition Under 37 C.F.R. 1.53(E) in Response to Notice of Omitted Item(s) in a Nonprovisional Application Mailed June 27, 2003, filed April 12, 2003 (Certificate of Mailing dated April 8, 2004).

The petition is **granted**.

The application was filed on April 24, 2003. However, on June 27, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application noting, *intern alia*, that a filing date had not been accorded the application because the specification was missing.

In response, Applicant files the instant petition wherein Applicant avers that a specification was originally filed with the application on April 24, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 124 pages of specification on April 24, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of 124 pages of specification on April 24, 2003. Petitioner has also re-submitted the specification with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the

Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of the 124 pages of specification, supplied on April 12, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 50-1505 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of April 24, 2003, and an indication that 124 pages of specification were present on filing, using the 124 pages of specification filed on April 12, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/5/09

TO SPE OF : ART UNIT 2612 (2600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/422,634 Patent No.: 7,224,273

Attn: Daryl Pope

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Benjamin C. Lee/ AU2612 — **5/5/09**
SPE — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/28/09

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10422637 Patent No.: 7239287 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Douglas K. Owen GAU 2821

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United States Patent and Trademark Office
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MAR 22 2010

OFFICE OF PETITIONS

ROBERT H FRANTZ
P O BOX 23324
OKLAHOMA CITY, OK 73123

In re Application of :
Jerry Walter Malcolm :
Application No. 10/422,661 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. AUS920030099US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2010, 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 30, 2009, as required by the Notice of Allowance and Fee(s) Due mailed September 30, 2009. Accordingly, the application became abandoned on December 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: CARLOS MUNOZ-BUSTAMANTE
LENOVO (US) INC.
BLD-1, 4B10
1009 THINK PLACE
MORRISVILLE, NC 27560

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

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JUL 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Pricilla Eseobar-Bowser et al	:	
Application No. 10/422,669	:	ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. TI-35308	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2005, to revive the above-identified application.

The petition is **DISMISSED** AS MOOT.

On October 26, 2004, a final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On January 14, 2005, a Notice of Appeal was timely filed. Applicants were required to file an appeal brief within 2 months of receipt in the USPTO of the Notice of Appeal, i.e., on or before March 14, 2005. This 2-month period is extendable under 37 CFR 1.136(a) by up to 5 more months., i.e., through August 14, 2005.

The instant petition, accompanied by a request for continued examination (RCE), is filed before August 14, 2005. The petition authorized the USPTO to charge extension of time to Deposit Account No. 20-0668. Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition was prematurely filed and is dismissed as involving a moot issue.

The four month extension of time fee of $1,590 will be charged to the above-noted deposit account. Since this application was not abandoned at the time of filing of the petition to revive, no petition fee is required and none has been charged.

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

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOON S. HAM, ESQ.
PIPER RUDNICK LLP
P. O. BOX 9271
RESTON, VA 20195

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Soo-IL Choi, et al.
Application No. 10/422,696
Filed: April 25, 2003
Attorney Docket No. P66312US3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 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 May 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August 20, 2004.

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

The Change of Correspondence Address has been accepted and recorded.

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

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Kara L. Nance	: DECISION ON REQUEST FOR
Patent Number	: 7613932	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/422,709	: 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 **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 05/17/2010

Applicant : Kara L. Nance
Patent Number : 7613932
Issue Date : 11/03/2009
Application No: 10/422,709
Filed : 04/24/2003

: 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 **1127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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MAIL

Paper No. 6

OCT 1 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Juan Carlos A. Marquez
Reed Smith LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

In re Application of: Fujimoto, et al.
Application No. 10/422,734
Filed: April 25, 2003
For: SYSTEM AND MANAGING METHOD FOR CLUSTER-TYPE STORAGE

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed September 9, 2003 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

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

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

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

With respect to section (b) above, the petition filed September 9, 2004 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in telephone communications with applicant's attorney, Juan Carlos Marquez (Reg. No. 34072) on October 1, 2004, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed September 9, 2004 and the oral agreement on October 1, 2004 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

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

10/7/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

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THE TECHNOLOGY LAW OFFICES OF VIRGINIA
P.O. BOX 818
MIDDLEBURG VA 20118

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Stuart Pollard Jackson et al :
Application No. 10/422,743 : DECISION GRANTING PETITION
Filed: April 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 12, 2004,is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center AU 2837.

Karen Creasy

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

cc:
JAMES W. HINEY
1872 PRATT DRIVE, SUITE 1100
BLACKSBURG, VA 24060

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PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OFFICE OF PETITIONS

In re Application of

Ching-Hsien Huang

Application No. 10/422,769

Filed: April 25, 2003

Attorney Docket No. FP9452

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 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 October 17, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time was obtained within the allowable period. Accordingly, the application became abandoned on January 18, 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 application is being forwarded to Technology Center 3600, GAU 3632 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SCOTT P. ZIMMERMAN, PLLC
PO BOX 3822
CARY NC 27519

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MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Ditcharo, et al. :
Application No. 10/422,815 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. BS98-037-CON :
For: NOTIFICATION SYSTEM AND METHOD

This is a decision on the petition under 37 CFR 1.137(b), filed on February 14, 2005 to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the May 28, 2004 non-final Office action which set an extendable three (3) month 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 29, 2004. A Notice of Abandonment was mailed on December 13, 2004.

Applicant has submitted an amendment in reply to the May 28, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 28, 2004 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center 2100's technical support staff for processing the amendment filed on February 14, 2005.

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

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Chien-Ping Lien :
Application No. 10/422,827 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. FP9464 :

This is a decision on the petition, filed April 25, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a decision on the petition, filed March 28, 2005, to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

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

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed June 28, 2004. A Notice of Abandonment was mailed on February 23, 2005.

Applicant contends that the Office Action mailed June 28, 2004 was not received. Applicant states that a search of the file jacket and docket records indicates that the Office action was not received. In support thereof applicants submitted the docket record for the above-identified application.

The evidence presented by applicant is insufficient to withdraw the holding of abandonment. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;
(2) A statement attesting to the fact that a search of the file jack and docket records indicates that the Office communication was not received; and
(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket record indicated above must include a copy of the **list** of all responses in the practitioner's office with the due date of September 28, 2004. See Notice entitled "Withdrawing

the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993). The petition has failed to comply with requirement (3) indicated above. Accordingly, the request to withdraw the holding of abandonment is dismissed.

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 petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is granted.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3727 for consideration of the amendment filed April 25, 2005.

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

[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.

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JAN 15 2009

TECHNOLOGY CENTER 2100

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

In re Application of: Park, et al.
Application No.: 10/422,843
Filed: April 25, 2003
Attorney Docket No.: 123056-05004461
For: METHOD FOR DATA SYNCHRONIZATION AND UPDATE CONFLICT RESOLUTION BETWEEN MOBILE CLIENTS AND SERVER IN MOBILE SYSTEM

DECISION ON PETITION *UNDER 37 CFR §1.181* to RESET PERIOD FOR REPLY

This is a decision on the petition filed July 24, 2008 under 37 CFR § 1.181 to reset the Office action response date under MPEP 710.06 for an Office action not received. The delay in responding to the instant petition is regretted.

A review of the file record indicates that a final Office action was mailed on April 4, 2008. A Request for Continuing Examination, amendment, remarks, as well as a three-month extension of time were filed in the instant application on October 6, 2008. The above-identified papers are entered into the file and have been processed. The response filed October 6, 2008, along with the three-month extension of time, are considered to have been timely filed, thus rendering the request to reset the period for reply of the April 4, 2008 (final) Office action moot.

Accordingly, in view of the above stated reason, the instant petition, filed on July 24, 2008 to reset the period for reply to the April 4, 2008 action, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The instant application is being forwarded to the Examiner for appropriate action on the merits. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/422,843	04/25/2003	Joong-Ki Park	123056-05004461	8366

22429 7590 01/15/2009
LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

EXAMINER	
AILES, BENJAMIN A	
ART UNIT	**PAPER NUMBER**
2442	

MAIL DATE	DELIVERY MODE
01/15/2009	PAPER

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

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

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In re Patent No. 6856532
Issue Date: February 15,2005
Application No. 10422850
Filed: April 25,2003
Attorney Docket No. M4065.0449/P449-A

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

This is a decision on the electronic petition, filed April 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6856532	2005-02-15	10422850	2003-04-25	M4065.0449/P449-A

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-04-21
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/422,865	04/24/2003	2873	375	LERNERI.024C2D1	17	2	1

CONFIRMATION NO. 7818

CORRECTED FILING RECEIPT

OC000000012041013

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 03/05/2004

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

Applicant(s)

Julie B. Madison, Hampton, VA;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/694,667 10/23/2000
which is a CON of 08/845,125 04/18/1997 PAT 6,149,269

Foreign Applications

If Required, Foreign Filing License Granted: 06/19/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Frame construction for eyewear having removable auxiliary lenses

Preliminary Class

351

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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

NOT GRANTED

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

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999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Yawei Ni, et al. :
Application No. 10/422,867 : ON PETITION
Filed: April 23, 2003 :
Attorney Docket No.: 04137.0002U3 :

This is a decision on the petition, filed August 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 February 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1623 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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DEC 08 2008

In re Application of	:	
Yawei Ni, et al.	:	
Application No. 10/422,867	:	DECISION GRANTING PETITION
Filed: April 23, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04137.0002U3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 8, 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 November 3, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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

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

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FEB 17 2010

In re Application of

Ni, et al

Application No. 10/422,867

Filed: April 23, 2003

Attorney Docket No. 04137.0002U3

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 14, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $755.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 18, 2009. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 19, 2009. A Notice of Abandonment was mailed March 5, 2008.

The issue fee and Form PTOL-85-b were received on December 14, 2009.

The application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAR 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Chee H. Chew	:	
Application No. 10/422,870	:	DECISION ON PETITION
Filed: April 23, 2003	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.181
50037.169USU1	:	
Title: SYSTEM AND METHOD FOR	:	
SELECTIVELY DEACTIVATING AUTO-	:	
DEPLOY FUNCTIONALITY OF A	:	
SOFTWARE INPUT PANEL	:	

This is a decision on the petition filed on January 14, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 20, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 21, 2007. A notice of abandonment was mailed on November 14, 2007.

RELEVANT PORTION OF THE M.P.E.P.

M.P.E.P. § 711.03(c) states, *in pertinent part*:

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 (emphasis added). 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.

ANALYSIS

The showing in this petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that the Office communication of March 20, 2007 was not received, has included a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed, and has asserted that the file has been reviewed. However, it does not appear that Petitioner searched the docket record.

Prior to submitting the renewed petition, Petitioner should review the docket record. If the missing communication is not located, Petitioner should then include a statement attesting to the fact that a search of the docket record indicates that the Office communication was not received.

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 Pursuant to 37 C.F.R. § 1.181(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[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Chee H. Chew	:	
Application No. 10/422,870	:	DECISION ON RENEWED PETITION
Filed: April 23, 2003	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.181
50037.169USU1	:	
Title: SYSTEM AND METHOD FOR	:	
SELECTIVELY DEACTIVATING AUTO-	:	
DEPLOY FUNCTIONALITY OF A	:	
SOFTWARE INPUT PANEL	:	

This is a decision on the renewed petition filed on April 29, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition is **DISMISSED**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 20, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 21, 2007. A notice of abandonment was mailed on November 14, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on filed on January 14, 2008, and was dismissed via the mailing of a decision on March 11, 2008.

RELEVANT PORTION OF THE M.P.E.P.

Section 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 describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **If no such master docket exists, the practitioner should so state** (emphasis added) and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the

Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

Petitioner has asserted that the Office communication of March 20, 2007 was not received and that a search of the file and docket records indicates the same. Petitioner has further provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

However, the showing in this petition is not sufficient to withdraw the holding of abandonment. First, it does not appear that Petitioner has included a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO. Second, the copy of the docket record that Petitioner has provided is not a master docket, and Petitioner has not stated that no such master docket exists.

CONCLUSION

On second renewed petition, Petitioner should:

- include a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO;
- establish that the system is sufficiently reliable, and;
- either provide a copy of the master docket record or state that no such master docket exists.

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 Pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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SEP 02 2008

In re Application of	:	
Chee H. Chew	:	
Application No. 10/422,870	:	DECISION ON SECOND RENEWED
Filed: April 23, 2003	:	PETITION PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.181
50037.169USU1	:	
Title: SYSTEM AND METHOD FOR	:	
SELECTIVELY DEACTIVATING AUTO-	:	
DEPLOY FUNCTIONALITY OF A	:	
SOFTWARE INPUT PANEL	:	

This is a decision on the second renewed petition filed on July 29, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 20, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 21, 2007. A notice of abandonment was mailed on November 14, 2007.

RELEVANT PORTION OF THE M.P.E.P.

Section 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 describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office

> action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

Petitioner has asserted that the Office communication of March 20, 2007 was not received and that a search of the file and docket records indicates the same. Petitioner has further provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on January 14, 2008, and was dismissed via the mailing of a decision on March 11, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 29, 2008, and was dismissed via the mailing of a decision on June 3, 2008.

The decision on the renewed petition set forth, in pertinent part:

> …the showing in this petition is not sufficient to withdraw the holding of abandonment. First, it does not appear that Petitioner has included a statement describing the system used for recording an Office action received at the correspondence address of record with the USPTO. Second, the copy of the docket record that Petitioner has provided is not a master docket, and Petitioner has not stated that no such master docket exists.
>
> Decision on renewed petition, page 3.

With this second renewed petition, Petitioner has stated that no such master docket exists, and has provided a copy of the individual docket record that is associated with this application.

However, the statement that Petitioner has included describing the system used for recording an Office action received at the correspondence address of record with the USPTO is **insufficient to either describe the docketing system or establish the reliability of the same.** The statement of Ms. Gandel-Klein explains that incoming mail is date-stamped and sorted into correspondence that requires docketing and correspondence that does not. The former is brought to the docketing department, where it is docketed into a computerized docket system, which calculates the corresponding due dates.

However, both the petition and the statement of Ms. Gandel-Klein are silent as to **how this computerized docketing system serves to ensure that the correspondences recorded therein are**

responded to in a timely manner. Does this computer-based docketing software program generate reports that are distributed to the responsible attorneys/agents? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorneys/agents?

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 "Third Renewed Petition Pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

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[5].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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APR 14 2009

OFFICE OF PETITIONS

In re Application of :
Chee H. Chew :
Application No. 10/422,870 : DECISION ON THIRD RENEWED
Filed: April 23, 2003 : PETITION PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.181
50037.169USU1 :
Title: SYSTEM AND METHOD FOR :
SELECTIVELY DEACTIVATING AUTO- :
DEPLOY FUNCTIONALITY OF A :
SOFTWARE INPUT PANEL :

This is a decision on the third renewed petition filed on February 18, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

Receipt of the concurrently submitted three-month extension of time is acknowledged, however a four-month extension of time is required in order to make timely this response. The three-month payment will be refunded to Petitioner's credit card, and the fee that is associated with the filing of a four-month extension of time will be charged to Petitioner's Deposit Account in due course, as authorized in this third renewed petition.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed March 20, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on June 21, 2007. A notice of abandonment was mailed on November 14, 2007.

RELEVANT PORTION OF THE M.P.E.P.

Section 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 describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable** (emphasis added). It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

PROCEDURAL HISTORY AND ANALYSIS

Petitioner has asserted that the Office communication of March 20, 2007 was not received and that a search of the file and docket records indicates the same. Petitioner has further provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on January 14, 2008, and was dismissed via the mailing of a decision on March 11, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on April 29, 2008, and was dismissed via the mailing of a decision on June 3, 2008.

A second renewed petition pursuant to 37 C.F.R. § 1.181 was filed on July 29, 2008, and was dismissed via the mailing of a decision on September 2, 2008.

With this third renewed petition, Petitioner has indicated that "Daily Docket Reports" are generated and distributed to the responsible attorney and his/her assistant "every business morning," and these reports contain information for the following three days.[1] Moreover, every six weeks, a "Six-Week Reminder Report" is generated.[2]

The undersigned will interpret these statements as meaning that both the Daily Docket Reports and the Six-Week Reminder Reports use information that is pulled from the firm's computerized docketing system. Moreover, the undersigned will interpret these statements as meaning that the Six-Week Reminder Reports are distributed to each responsible attorney and his/her assistant upon generation. **Petitioner must notify the undersigned if these interpretations are not correct.**

---

1 Third renewed petition, page 2. See also Jenness declaration of facts, paragraph 5.

2 Third renewed petition, page 2. See also Jenness declaration of facts, paragraph 6.

CONCLUSION

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 final Office action mailed March 20, 2007 was not received.

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the final Office action mailed March 20, 2007, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 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 of Petitioner's further action(s).

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

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Gabor HELTOVICS et al. :
Application No. 10/422,876 : DECISION GRANTING PETITION
Filed: April 24, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CM2460MC :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 19, 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 October 20, 2003

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 oath/declaration; (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 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The application file is being referred to the Office of Initial Patent Examination.

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

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The Procter & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Gabor Heltovics, et al. :
Application No. 10/422,880 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. CM2459MC :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Missing Parts (Notice) was mailed to applicant on August 15, 2003, which set a two (2) month shortened statutory period for reply. The Notice required applicant to submit an oath or declaration. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 16, 2003.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an executed oath or declaration. Receipt of the executed oath or declaration is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/30/06

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction on Patent No.: 6861079

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.

Michelle Williams

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:

_____

_____

_____

_____

_____

Supervisory Patent Examiner TERRY MCKELVEY PRIMARY EXAMINER — **SPE**

1655 — **Art Unit**

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Paper No. 6

O'MELVENY & MEYERS
114 PACIFICA, SUITE 100
IRVINE CA 92618

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of
Eddy, et al.
Application No. 10/422,917
Filed: April 23, 2003
Attorney Docket No. 844,004-284
For: COMMUNICATION SYSTEMS INCORPORATING HTS FILTERS AND NON-LINEAR MODULATORS SUCH AS RF-LIGHT MODULATORS

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed August 7, 2003 (certificate of mailing date August 5, 2003), requesting that the above-identified application be accorded a filing date of April 23, 2003. The Office sincerely apologizes for the lengthy delay in responding to this petition.

The application was deposited on April 23, 2003. On July 22, 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 23, 2003 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of April 23, 2003 on the basis that 4 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on April 23, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 23, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawings were filed on April 23, 2003. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 50-0639 will be credited the $130 petition fee submitted on August 7, 2003 (certificate of mailing date August 5, 2003).

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 23, 2003**, using the copy of the 4 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 4 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

10/30/07

In re Application of:
WOLFE, TIMOTHY R. et al
Serial No. 10/422,919
Filed: Apr. 23, 2003
Docket: 2078-5657US
Title: WOUND IRRIGATOR

DECISION ON PETITION
UNDER 37 CFR § 1.181
To Withdraw Holding of
Abandonment

This is a decision on the petition filed on Aug. 9, 2007. The petitioner requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a).

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Requirement for Restriction/Election mailed on Dec. 4, 2006, which set a one month shortened period for reply. Notice of abandonment was mailed on Jul. 13, 2007.

Petitioner asserts that a timely response to the Requirement for Restriction/Election was mailed to the Office on Jan. 3, 2007. The petitioner has supplied a copy of a Response to Official Action indicating a mailing date of Jan. 3, 2007 and a copy of a return receipt postcard indicating a receipt date of Jan. 7, 2007. The petitioner has also provided a Certificate of Mailing pursuant to 37 CFR 1.8, dated Jan. 3, 2007 on top of the page 1 of the amendment.

As petitioner has provided convincing evidence that a timely reply to the Requirement for Restriction/Election was mailed to the Office on Jan. 3, 2007, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed July 13, 2007 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3761 for appropriate action.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Wang : DECISION ON PETITION
Application No. 10/422,926 :
Filed: April 23, 2003 :
Docket No.: 15436.80.1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 15, 2006.

This application was held abandoned for failure to timely submit a proper reply to the Office communication mailed May 22, 2006. Notice of Abandonment was mailed September 6, 2006.

Petitioner asserts that the Notice of Abandonment was prematurely mailed.

The Office communication mailed May 22, 2006 set a two month shortened statutory period of time for reply, making a reply due on or before July 22, 2006. The Office communication, however, extended the period of time for reply to a maximum of six months from the date of mailing of the Office communication, making a response accompanied by the appropriate petition for extension of time timely up and until November 22, 2006. The instant petition includes a petition for a two months extension along with a reply to the Office communication.

Petitioner's arguments have been carefully considered and found convincing. In view of the arguments submitted, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ROBERT C. COLWELL
TOWNSEND TOWNSEND & CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

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AUG 14 2007
OFFICE OF PETITIONS

In re Application of :
TANINAKA, et al. :
Application No. 10/422,930 : DECISION GRANTING PETITION
Filed: April 23, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **16869P-077500US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 1, 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 July 25, 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 2114 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.*

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SEP 30 2008

OFFICE OF PETITIONS

Bell, Boyd & Lloyd LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

In re Application of :
Barbas, et al. : LETTER REGARDING PTA
Application No. 10/422,934 :
Filed: April 23, 2003 :
Atty. Dkt. No.: 119362-00003 / 1227C :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT AT ALLOWANCE PURSUANT TO COMMENT 43 OF THE FINAL RULE," filed June 12, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 14, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 383 days. Applicants advise that this adjustment appears to be longer than appropriate.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 359 days.

As indicated in the Determination of Patent Term Adjustment mailed April 14, 2008, an overall adjustment of 622 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

The adjustment was properly reduced 86 days in accordance with 37 CFR 1.704(b) in connection with the reply filed September 1, 2006 in response to the restriction requirement mailed March 7, 2006.

The adjustment was properly reduced 31 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed October 2, 2006.

As indicated by applicants, the adjustment is also properly reduced 26 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed July 11, 2007. The reduction commenced June 16, 2007, the day after the date that the initial

reply to the non-final Office action was filed, and ended July 11, 2007, the date that the IDS was filed.

As further asserted by applicants, the reduction of 27 days in connection with the reply filed December 31, 2008 was improperly calculated.

The correct reduction in this regard is 25 days. In accordance with 37 CFR 1.704(b), the reduction commenced December 7, 2007, the day after the date that is three months after the date that the non-final Office action dated September 6, 2007 was mailed, and ended December 31, 2008, the date the reply thereto was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 359 days (adjustment for Office delays totalling 622 days less reductions for applicants delays totalling 263 days).

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

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

This application is being forward to the Office of Patent Publication for issuance of the patent.

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

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 9/29/2008

PALM INTRANET

Time: 11:48:07

PTA Calculations for Application: 10/422934			
Application Filing Date:	04/23/2003	PTO Delay (PTO):	622
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	239
Post-Issue Petitions:	0	Total PTA (days):	359
PTO Delay Adjustment:	-24		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	09/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		24	
77	04/14/2008	MAIL NOTICE OF ALLOWANCE			
76	04/11/2008	ISSUE REVISION COMPLETED			
75	04/11/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
74	04/11/2008	DOCUMENT VERIFICATION			
73	04/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	04/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
71	04/09/2008	NOTICE OF ALLOWABILITY			
70	04/09/2008	CORRESPONDENCE ADDRESS CHANGE			
69	04/03/2008	PARALEGAL TD ACCEPTED			
68	12/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	12/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	02/08/2008	DATE FORWARDED TO EXAMINER			
65	01/02/2008	RESPONSE AFTER NON-FINAL ACTION		27	62
64	01/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	12/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	09/06/2007	MAIL NON-FINAL REJECTION			
61	09/04/2007	NON-FINAL REJECTION			
59	07/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	07/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

56	06/25/2007	DATE FORWARDED TO EXAMINER			
55	06/15/2007	RESPONSE AFTER NON-FINAL ACTION		95	50
54	06/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	12/01/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	12/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	12/12/2006	MAIL NON-FINAL REJECTION			
49	12/07/2006	NON-FINAL REJECTION			
48	07/07/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	11/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	10/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	11/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
44.7	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		31	39
44	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	09/14/2006	CORRESPONDENCE ADDRESS CHANGE			
42	09/14/2006	CORRESPONDENCE ADDRESS CHANGE			
41	09/14/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
40	09/14/2006	DATE FORWARDED TO EXAMINER			
39	09/01/2006	RESPONSE TO ELECTION / RESTRICTION FILED		86	35
38	09/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	07/07/2006	REFERENCE CAPTURE ON IDS			
36.7	07/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	07/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	03/07/2006	MAIL RESTRICTION REQUIREMENT	622		-1
34	03/06/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
33	01/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
32	11/22/2005	REFERENCE CAPTURE ON IDS			
31.7	11/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

31	11/22/2005	FILED			
30	08/10/2004	CORRESPONDENCE ADDRESS CHANGE			
29	08/10/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
28	06/24/2004	CORRESPONDENCE ADDRESS CHANGE			
27	04/20/2004	REFERENCE CAPTURE ON IDS			
26.7	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	04/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/27/2004	MISCELLANEOUS INCOMING LETTER			
24	12/19/2003	REFERENCE CAPTURE ON IDS			
23.7	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/19/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/21/2003	CORRESPONDENCE ADDRESS CHANGE			
21	12/12/2003	CORRESPONDENCE ADDRESS CHANGE			
20	11/25/2003	REFERENCE CAPTURE ON IDS			
19.7	06/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	06/27/2003	PRELIMINARY AMENDMENT			
17.7	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16.7	09/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	09/22/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	06/10/2003	APPLICATION RETURN FROM OIPE			
12	06/10/2003	APPLICATION IS NOW COMPLETE			
11	06/10/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	06/10/2003	APPLICATION RETURN TO OIPE			
9	06/09/2003	APPLICATION DISPATCHED FROM OIPE			

8	06/10/2003	APPLICATION IS NOW COMPLETE			
5	05/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	05/15/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	05/12/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/23/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/23/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/12/09

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10422934 Patent No.: 7442784 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Manjunath Rao/ 1647
SPE Art Unit

PAGE 2/2 * RCVD AT 3/16/2009 3:52:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of
Kenji Funahashi et al
Application No. 10/422,958
Filed: April 25, 2003
Attorney Docket No. 115810

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed December 27, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

[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

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/422958	04/25/03	FUNAHASHI, KENJI	115810

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

EXAMINER	
BANKHEAD, GENE	
ART UNIT	PAPER NUMBER
3744	

DATE MAILED: 3/8/07

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed 2/27/07

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.

For Manager, Publications Division
Office of Patent Publication
571-272-4200

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington DC 20037

COPY MAILED

APR 26 2006

OFFICE OF PETITIONS

In re Application of
Howard Rhodes
Application No. 10/422,965
Filed: April 25, 2003
Attorney Docket Number: M4065.0619/P619
Title: IMAGER FLOATING DIFFUSION REGION AND PROCESS FOR FORMING SAME

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

This is a decision on the petition filed on October 20, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed January 4, 2005, 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 February 5, 2005. A Notice of abandonment was mailed on October 3, 2005.

With the present petition, Petitioner contends that a response was timely submitted, and has submitted both a copy of this election and a postcard receipt which indicates that a one-page response was received in the Office of Initial Patent Examination on January 27, 2005. As such, it is clear that a response was received on that date, and subsequently misplaced in the Office.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**

Technology Center 2800 will be notified of this decision, so that the response which was timely submitted on January 27, 2005 can be processed.

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

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

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)
6,773,750	2004-08-10	10/422,983	2003-04-25	9553.001.10

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	/Michael I. Angert #46522/	Date (YYYY-MM-DD)	2008-10-23
Name	Michael I. Angert	Registration Number	46522

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6773750
Issue Date: August 10,2004
Application No. 10422983
Filed: April 25,2003
Attorney Docket No. 9553.001.10 (002)

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

This is a decision on the electronic petition, filed October 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 10/422984	:	DECISION
Filing or 371(c) Date: 04/25/2003	:	ON PETITION
Patent No.: 6880429	:	
Issue Date: 04/19/2005	:	
Attorney Docket Number:	:	
98-305	:	

This is a decision on the correspondence entitled "Petition to Correct Assignee Under 37 CFR 1.183" filed February 11, 2008, 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 properly treated as a petition under 37 CFR 3.81(b)[1].

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 "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Applicant files the instant petition and requests correction of the assignee, currently blank, to Caterpillar Inc., Peoria, IL.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

> After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment

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

was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter. (Emphasis supplied).

Analysis and conclusion

A review of Office records reveal that no assignment was recorded before issuance of the patent. As such, the patent correctly indicated no assignee data thereon. Applicant petitions to add the name of the putative assignee; however, 37 CFR 3.81(b) provides for correction of the patent "to state the name of the assignee" as it appears on the recorded assignment. Here, there was no recorded assignment, and the patent issued consistent with Office records.

The petition is dismissed as inappropriate.

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 matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
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JUL 07 2008

In re Application of	:	
Daniel et al.	:	
Application No. 10/422984	:	DECISION
Filing or 371(c) Date: 04/25/2003	:	ON PETITION
Patent No.: 6880429	:	
Issue Date: 04/19/2005	:	
Attorney Docket Number:	:	
98-305	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed May 16, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

The present application claims the benefit of provisional application 60/421110, which was converted to a provisional application from nonprovisional application no. 10/134,477. An assignment for application no. 10/134,477 was recorded April 30, 2002.

The MPEP 306.01, Assignment of an Application Claiming the Benefits of a Provisional Application, states:

> If an application which claims the earlier filing date of a provisional application under 35 U.S.C. 119(e) includes only subject matter which formed a part of the provisional application, an assignment recorded against the provisional application will be effective in the later application, similar to the practice with respect to continuations and divisions filed under 35 U.S.C. 120. See MPEP § 306. If an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120. See MPEP § 306.

A review of the present application reveals that the specification differs from that filed in provisional application 60/421110. As stated above, "[i]f an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject

matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120."

Before a petition may be granted, Applicant must clarify whether there is subject matter not in common with the subject matter of the provisional application, in the present application.

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 matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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

In re Application of
Daniel et al.
6,880,429
10/422,984
4/19/2005
98-305

Enclosed you will find a letter from the Office Petitions dated and mailed on 7/7/08 to your address, this letter serves as a denial letter for the request of a certificate of correction.

Please forward any correspondence concerning this matter with the Office of Petitions.

Ernest C. White, LIE
703 308-9390x122

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JUL 07 2008

In re Application of	:	
Daniel et al.	:	
Application No. 10/422984	:	DECISION
Filing or 371(c) Date: 04/25/2003	:	ON PETITION
Patent No.: 6880429	:	
Issue Date: 04/19/2005	:	
Attorney Docket Number:	:	
98-305	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed May 16, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

The present application claims the benefit of provisional application 60/421110, which was converted to a provisional application from nonprovisional application no. 10/134,477. An assignment for application no. 10/134,477 was recorded April 30, 2002.

The MPEP 306.01, Assignment of an Application Claiming the Benefits of a Provisional Application, states:

> If an application which claims the earlier filing date of a provisional application under 35 U.S.C. 119(e) includes only subject matter which formed a part of the provisional application, an assignment recorded against the provisional application will be effective in the later application, similar to the practice with respect to continuations and divisions filed under 35 U.S.C. 120. See MPEP § 306. If an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120. See MPEP § 306.

A review of the present application reveals that the specification differs from that filed in provisional application 60/421110. As stated above, "[i]f an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject

matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120."

Before a petition may be granted, Applicant must clarify whether there is subject matter not in common with the subject matter of the provisional application, in the present application.

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 matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 10/422984	:	DECISION
Filing or 371(c) Date: 04/25/2003	:	ON PETITION
Patent No.: 6880429	:	
Issue Date: 04/19/2005	:	
Attorney Docket Number:	:	
98-305	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed August 21, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

The present application claims the benefit of provisional application 60/421110, which was converted to a provisional application from nonprovisional application no. 10/134,477. An assignment for application no. 10/134,477 was recorded April 30, 2002.

Petitioner files the present petition and clarifies "that the subject matter in U.S. Application No. 10/422,984 was included in U.S. Provisional Application 60/421,110."

"The MPEP 306.01, Assignment of an Application Claiming the Benefits of a Provisional Application, states:

> If an application which claims the earlier filing date of a provisional application under 35 U.S.C. 119(e) includes only subject matter which formed a part of the provisional application, an assignment recorded against the provisional application will be effective in the later application, similar to the practice with respect to continuations and divisions filed under 35 U.S.C. 120. See MPEP § 306. If an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120. See MPEP § 306.

A review of the present application reveals that the specification differs from that filed in provisional application 60/421110. As stated above, "[i]f an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be recorded for the application claiming the benefit of the provisional application, similar to the practice with respect to continuations-in-part filed under 35 U.S.C. 120."

Applicant states in the present renewed petition that the subject matter in U.S. Application No. 10/422,984 was included in U.S. Provisional Application 60/421,110; however, Applicant does not clarify whether the present application, Application No. 10/422,984, includes subject matter not in common with provisional application no. 60/421,110.

Applicant must clarify whether there is subject in matter in the present application not in common with the subject matter of the provisional application.

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 matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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DEC 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 10/422984	:	DECISION
Filing or 371(c) Date: 04/25/2003	:	ON PETITION
Patent No.: 6880429	:	
Issue Date: 04/19/2005	:	
Attorney Docket Number:	:	
98-305	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed December 16, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The present application claims the benefit of provisional application 60/421110, which was converted to a provisional application from nonprovisional application no. 10/134,477. An assignment for application no. 10/134,477 was recorded April 30, 2002.

Petitioner files the present request for reconsideration of petition and clarifies "that all of the subject matter in U.S. Application No. 10/422,984 was included in U.S. Provisional Application 60/421,110[1]."

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that Caterpillar, Inc., is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

---

[1] The MPEP 306.01, Assignment of an Application Claiming the Benefits of a Provisional Application, states:

> If an application which claims the earlier filing date of a provisional application under 35 U.S.C. 119(e) includes only subject matter which formed a part of the provisional application, an assignment recorded against the provisional application will be effective in the later application, similar to the practice with respect to continuations and divisions filed under 35 U.S.C. 120. See MPEP § 306.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction filed December 16, 2008.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-22-06

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6904247

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

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

Should inventor's name be enter? Thanks — 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.

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

Comments:

_____

_____

_____

_____

_____

_____ 2852

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

JJGJr: 03-04

Paper No: 6

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Kallhammer, et al.
Application No. 10/423,009
Filed: 25 April, 2003
Attorney Docket No.: 1501-1195

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 20 November, 2003.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 25 April, 2003, without, *inter alia*, an executed oath or declaration;

- accordingly, a Notice to File Missing Parts of Application was mailed on 20 June, 2003, requiring, *inter alia*, an executed oath or declaration, and a surcharge for the late filing;

- the petition (with fee) and, *inter alia*, surcharge for late filing, request and fee for extension of time, correspondence and oath/declaration signed by co-inventors Lars Karlsson and Staffan Straat on behalf of themselves and the non-signing inventors Jan-Erik Kallhammer (Mr. Kallhammer) and Dick Eriksson (Mr. Eriksson) makes the required showing under 37 C.F.R. §1.47(a) of an attempt to present/deliver the entire application to Mr. Kallhammer and Mr. Eriksson;

- specifically, the declaration/statement/submission of facts of/by Eric Jensen (Reg. No.

37,855) and that of Michael Andersson of Albihns Stockholm AB (Law Offices), establish that the non-signing inventors were mailed a copy of the entire application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration; and

- with the supplement Petitioner has shown proprietary interest/irreparable harm.

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

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

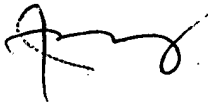
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

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

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

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

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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JJGJr: 03-04

Paper No: 7

JAN ERIK KALLHAMMER
VASTMANGATAN 16,
582 46
LINKOPING, SWEDEN
VIA AIR MAIL

COPY MAILED
MAR 2 9 2004
OFFICE OF PETITIONS

In re Application of
Kallhammer, et al.
Application No. 10/423,009
Filed: 25 April, 2003
Attorney Docket No.: 1501-1195

COMMUNICATION

Dear Jan Erik Kallhammer:

You are named as 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 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 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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF
1001 G STREET, N.W.
SUITE 1100
WASHINGTON, DC 20001

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JUL 11 2005

OFFICE OF PETITIONS

In re Patent No. 6,846,358 :
Issue Date: January 25, 2005 :
Application No. 10/423,015 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 006242.00027 :

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

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. 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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Joseph W. Berenato, III
Liniak, Berenato & White, LLC
6550 Rock Spring Drive, Suite 240
Bethesda MD 20817

COPY MAILED

FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Best : DECISION ON PETITION
Application No. 10/423,022 :
Filed: April 25, 2003 :
Docket No.: 16202.920 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 5, 2006.

This application was held abandoned June 25, 2005 for failure to timely submit a proper reply to the non-final Office action mailed March 24, 2005. Notice of Abandonment was mailed December 19, 2005.

Petitioner asserts that a response to the non-final Office action was timely submitted on June 23, 2005 and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped June 23, 2005.

The original amendment submitted June 23, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Meron, et al. : DECISION ON PETITION
Application No. 10/423,023 :
Filed: April 25, 2003 :
Docket No.: P-4452-US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 16, 2008.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed December 11, 2007. The final Office action set a three month shortened statutory period of time for reply. A reply was filed February 11, 2008. The reply failed to place the application in condition for allowance, as indicated by the Advisory Action mailed March 6, 2008. Notice of Abandonment July 10, 2008.

Petitioners assert that a request for continued examination (RCE), amendment, and petition for one month extension of time were submitted April 11, 2008 via facsimile in accordance with 37 CFR 1.18. Petitioners have submitted a copy of the reply bearing a certificate of facsimile date of April 11, 2008 in accordance with 37 CFR 1.8.

The original response filed April 11, 2008 has not been located in the application file. However, in view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The copy of the reply submitted herewith will be used for examination.

The required one month extension of time has been charged to petitioners' deposit account, as authorized.

The application file is being forwarded to the Technology Center 3700 for further processing of the response (RCE and submission) received April 11, 2008.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADE & COMPANY INC.
P.O. BOX 28006
1795 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-0
CANADA

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Glenn Bartlett : DECISION ON PETITION
Application No. 10/423,048 :
Filed: April 25, 2003 :
Atty Docket No. 80062-902 ADB :

This is a decision on the PETITION TO WITHDRAW NOTICE OF ABANDONMENT filed June 17, 2005 (and resubmitted September 26, 2005), which is properly treated under 37 CFR 1.181. This request was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed September 30, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December 31, 2004. A courtesy Notice of Abandonment was mailed on May 10, 2005.

Petitioner states that a response, made timely by an accompanying petition for extension of time within the first month, was timely filed by facsimile transmission on January 31, 2005. In support thereof, petitioner submits their file copy of

the January 31, 2005 transmission, including a copy of the Auto-Reply Facsimile Transmission issued by the Patent Office.

Petitioner's evidence has been reviewed, and found persuasive. It is specifically noted that both the response and the petition for extension of time included a signed and dated (January 31, 2005) certificate of mailing. The requirements of 37 CFR § 1.8(b) have been met. The response is considered timely filed on (Monday) January 31, 2005.

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

No fee is required on petition under § 1.181.

Technology Center AU 3727 has been advised of this decision. The application file is, thereby, forwarded for consideration by the examiner of the response resubmitted on petition filed September 26, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
745 SOUTH 23RD STREET, 2ND FLOOR
ARLINGTON, VA 22202

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DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Jan-Erik Kallhammer, Dick :
Eriksson, Lars Karlson and : DECISION GRANTING PETITION
Staffan Straat : UNDER 37 CFR 1.47(a)
Application No. 10/423,054 :
Filed: April 25, 2003
Title: NIGHT VISION DEVICE FOR A VEHICLE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 20, 2003.

The petition is **granted**.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

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

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN-ERIK KALLHAMMER
VÄSTMANGATAN 16
582 46
LINKÖPING, SWEDEN

COPY MAILED

DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of
Jan-Erik Kallhammer, Dick Eriksson, Lars Karlson and Staffan Straat
Application No. 10/423,054
Filed: April 25, 2003
Title: NIGHT VISION DEVICE FOR A VEHICLE

Dear JAN-ERIK KALLHAMMER:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET, 2ND FLOOR
ARLINGTON, VA 22202

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DICK ERIKSSON
TOMTEVÄGEN 1
441 35
ALINGSÅS, SWEDEN

COPY MAILED

DEC 0 8 2003

OFFICE OF PETITIONS

In re Application of
Jan-Erik Kallhammer, Dick Eriksson, Lars Karlson
and Staffan Straat
Application No. 10/423,054
Filed: April 25, 2003
Title: NIGHT VISION DEVICE FOR A VEHICLE

Dear DICK ERIKSSON:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

YOUNG & THOMPSON
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ARLINGTON, VA 22202

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JJGJR.: 02-04

Paper No: 7

BLAKELY SOKOLOFF
TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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FEB 2 0 2004
OFFICE OF PETITIONS

In re Application of
Williams, et al.
Application No. 10/423,061
Filed: 24 April, 2003
Attorney Docket No. 5887.P004

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 29December, 2003.

The petition is **DISMISSED**.

NOTE: Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response (with fee) should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

There will be no reconsideration thereafter. Failure to respond within the time set forth above will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 24 April, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 24 July, 2003, the Office mailed a Notice to File Missing Parts;

- on 29 December, 2003 (over a 23 December, 2003, certificate of mailing), Petitioner Michael J. Mallie (Reg. No. 36,591) filed the instant petition with fee (and request (and fee) for a three month extension of time), with:

  --an oath/declaration signed by inventors Tim A. Williams and Daniel A. Brookshire (for themselves and the non-signing inventor Dirk D. Eide (Mr. Eide);

  --Mr. Mallie's declaration and that of his assistant Debbie L. Riggio attesting to their transmittal to the non-signing inventor Mr. Eide of the oath/declaration and the assignment–but, notably, no copy of the entire application;

  --a copy of the transmittal letter (evidencing that a copy of the entire application (specification (description, claims, abstract) and drawings) was not sent to non-signing co-inventor Mr. Eide.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section,the oath or declaration must also:
>
> (1)Identify the application to which it is directed;

(2)State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

The materials submitted thus far clearly evidence that the entire application was not sent to the alleged non-signing inventor.

Therefore, the instant petition must be and hereby is **dismissed**.

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

By mail: (Effective 1 May, 2003)[2]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

---

[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-04

Paper No: 8

BLAKELY SOKOLOFF
TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Williams, et al.
Application No. 10/423,061
Filed: 24 April, 2003
Attorney Docket No. 5887.P004

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 April, 2004.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 24 April, 2003, without, *inter alia*, a fully executed oath or declaration; and
- on 24 July, 2003, the Office mailed a Notice to File Missing Parts;
- on 29 December, 2003 (over a 23 December, 2003, certificate of mailing), Petitioner Michael J. Mallie (Reg. No. 36,591) filed the instant petition with fee (and request (and fee) for a three month extension of time), with, *inter alia*, an oath/declaration signed by inventors Tim A. Williams and Daniel A. Brookshire (for themselves and the non-signing inventor Dirk D. Eide (Mr. Eide), which petition was dismissed on 20 February, 2004, for failing to demonstrate that the entire application (specification (description, claims, abstract) and drawings) had been sent to the non-signing inventor co-inventor Mr. Eide;

- the instant petition does make the required showing that the entire application (specification (description, claims, abstract) and drawings) now has been sent to the non-signing inventor co-inventor Mr. Eide.

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 04-04

Paper No: 8

DIRK EIDE
13351 CHUMSTICK HIGHWAY
LEAVENWORTH, WA 98826

COPY MAILED
APR 3 0 2004
OFFICE OF PETITIONS

In re Application of
Williams, et al.
Application No. 10/423,061
Filed: 24 April, 2003
Attorney Docket No. 5887.P004

CORRESPONDENCE

Dear Dirk Eide:

You are named as 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 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 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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
BLAKELY SOKOLOFF
TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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Paper No. 3

THOMPSON HINE LLP
2000 COURTHOUSE PLAZA N.E.
10 WEST SECOND STREET
DAYTON, OH 45402-1758

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JUN 27 2003
OFFICE OF PETITIONS

In re Application of
Rabas and Paller
Application No.: 10/423,070
Filed: April 25, 2003
Attorney Docket No: 006593-1984
For: OVEN HEAT EXCHANGER AND FLOOR CONSTRUCTION

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed April 25, 2003.

The petition is **GRANTED**.

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

The above-cited application was filed on April 25, 2003, and was accompanied by a declaration executed by only inventor Paller. Among the application papers was the instant petition requesting status be accorded under 37 CFR 1.47(a) and a statement authored by inventor Rabas in which he refuses to join the prosecution of the patent application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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HAYES, SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON, AZ 85701

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OFFICE OF PETITIONS

In re Application of :
Kazuyoshi Ueno :
Application No. 10/423,077 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. NEC NE70066 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed May 9, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

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

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

This matter is being referred to Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 9, 2005

TO SPE OF : ART UNIT 2871

SUBJECT : Request for Certificate of Correction on Patent No.: 6,888,602

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**

2871 **Art Unit**

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OFFICE OF THE DIRECTOR
TC 3600

AMIN & TUROCY, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland, OH 44114

In re Application of :
John C. Krumm et al :
Application No. 10/423,093 :
Filed: April 25, 2003 :
For: CALIBRATION OF A DEVICE LOCATION MEASUREMENT SYSTEM THAT UTILIZES WIRELESS SIGNAL STRENGTHS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition under 37 CFR 1.137(b) for revival of the application unintentionally abandoned dated October 18, 2004. The petition is being treated as a withdrawal of holding of abandonment under 37 CFR 1.181

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action mailed February 25, 2004, which set a three-month shortened statutory period. The application became abandoned on August 25, 2004, and a Notice to that effect was mailed on October 4, 2004.

Petitioner contends that a response was filed on May 6, 2004 by facsimile transmission. Applicant In support thereof states that a copy of the USPTO Auto Reply Facsimile transmission is attached as evidence of Office receipt. A thorough review of the file was conducted and no USPTO Auto Reply Facsimile transmission was found.

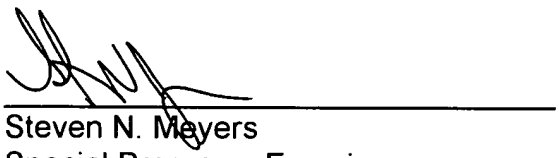
Accordingly, the petitioned is dismissed as the USPTO Auto Reply Facsimile transmission is missing. If applicant cannot find the USPTO Auto Reply Facsimile transmission applicant may wish to provide evidence of a timely filing based on a Certificate of Transmission. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate, in this case Paula West.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



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

SNM/jwk: 3/9/05

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JUL 12 2005

TECHNOLOGY CENTER 3600

AMIN & TUROCY, LLP
24th Floor, National City Center
1900 East Ninth Street
Cleveland, OH 44114

In re Application of :
John C. Krumm et al :
Application No. 10/423,093 :
Filed: April 25, 2003 :
For: CALIBRATION OF A DEVICE LOCATION MEASUREMENT SYSTEM THAT UTILIZES WIRELESS SIGNAL STRENGTHS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

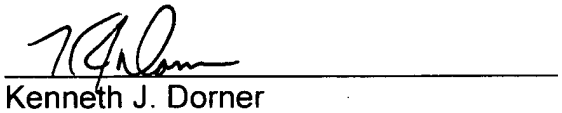
This is in reply to applicant's renewed petition under 37 CFR 1.137(b) for revival of the application unintentionally abandoned dated May 28, 2005. The petition is being treated as a withdrawal of holding of abandonment under 37 CFR 1.181

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action mailed February 25, 2004, which set a three-month shortened statutory period. The application became abandoned on August 25, 2004, and a Notice to that effect was mailed on October 4, 2004.

Petitioner contends that a response was filed on May 6, 2004 by facsimile transmission. Applicant In support thereof states that a copy of the USPTO Auto Reply Facsimile transmission is attached as evidence of Office receipt. A thorough review of the file was conducted and no USPTO Auto Reply Facsimile transmission was found with applicant's first petition filed October 18, 2004. As such, that petition was dismissed. This renewed petition includes as "Exhibit A" a copy of the USPTO Auto Reply Facsimile which adequately identifies a 14 page (including cover page) response to the Office Action dated February 25, 2004. The exhibit further includes a post card receipt, dated October 18, 2004, as evidence that the Auto Reply Facsimile transmission was submitted with the original petition.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status. The application will then be forwarded to the examiner for consideration of the May 6, 2004 amendment.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/rjc: 06/17/05

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OFFICE OF PETITIONS

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

In re Application of :
Soykan, et al. :
Application No. 10/423,112 : DECISION
Filed: 25 April, 2003 :
Attorney Docket No. P0009942.00 :

This is a decision on the petition, filed on 5 September, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application 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 that:

Applicant, failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 1 April, 2008, with reply due under a non-extendable deadline on or before 1 July, 2008.

The application went abandoned after midnight 1 July, 2008.

The fees due were submitted on 2 July 2008.

The Office mailed the Notice of Abandonment on 30 July, 2008.

On 5 September, 2008, Petitioner filed the instant petition with fee, a reply in the form of fees due, 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

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 Publications Branch to be processed into a patent 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 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.

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.

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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

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DEC 23 2005

OFFICE OF PETITIONS

In re Patent No. 6,917,331	:	
Issued: July 12, 2005	:	
Application No. 10/423,137	:	ON PETITION
Filed: April 25, 2003	:	
Attorney Docket No. M-15555-3C US	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV - 9 2005

#8

Mark W. Binder
KAGAN BINDER, PLLC
Maple Island Building, Suite 200
221 Main Street North
Stillwater, MN 55082

In re Application of :
Richard E. Peterson et al. : **DECISION ON PETITION**
Application No. 10/423,155 : **TO WITHDRAW THE**
Filed: April 24, 2003 : **HOLDING OF ABANDONMENT**

For: PREFABRICATED PREFINISHED REINFORCED PANELS FOR BUILDING EXTERIOR AND INTERIOR SURFACES AND METHOD OF MANUFACTURE

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on November 15, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed March 19, 2004, which set a one-month shortened statutory period. No response was received and a Notice of Abandonment was mailed on November 2, 2004.

Petitioner contends that a response was filed on May 19, 2004. In support thereof, petitioner submits, a copy of a response (including a request for a one-month extension of time) bearing a Certificate of Mailing signed by Jeanette M. Lamberta and dated May 19, 2004 and a copy of the postcard receipt bearing USPTO stamp dated May 24, 2004.

Petitioner's evidence of a timely filing based on a Certificate of Mailing is considered to be insufficient. In this regard, any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(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) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512), by the person who signed the certificate.

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original

response by Certificate of Mailing on the date indicated on the certificate, by the person who signed the certificate, in this instance Jeanette M. Lamberta.

Petitioner's evidence of a timely filing based on the postcard receipt is considered to be insufficient. In this regard, the date stamped on the post card receipt is May 24, 2004. Applicant's response was due May 19, 2004.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/js: 10/26/05

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Michaele A. Hakamaki
Kagan Binder, PLLC.
Maple Island Building,Suite 200
221 Main Street North
Stillwater, MN 55082

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OFFICE OF PETITIONS

In re Application of

Peterson, et al.

Application No. 10/423,155

Filed: April 24, 2003

Attorney Docket No. SUL0002/US

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 15, 2004.

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

This application was held abandoned on April 20, 2004, after it was believed that no response was received to the election/restriction requirement mailed March 19, 2004. The election/restriction requirement allowed a shortened statutory period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on November 2, 2004, indicating that a reply to the election/restriction requirement was not received.

The instant petition maintains that the response to the election/restriction requirement was mailed on May 19, 2004, with a request for an extension of time within the first month. A copy of the response containing a certificate of mailing dated May 19, 2004, accompanied the petition along with a statement of personal knowledge of the mailing of the response. A copy of the Office date-stamp postcard whereby the Office acknowledged having received a response May 24, 2004, also accompanied the petition

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3600, GAU 3635, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DIW May-06

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Brandt et al.	:	
Application No. 10/423,195	:	DECISION GRANTING PETITION
Filed: 25 April, 2003	:	
Atty Docket No. 8196-19	:	

This is a decision on the petition under 37 CFR 1.182, filed on 27 February, 2006, to change the second named inventor's last name.

The petition is **GRANTED**.

The name of the second inventor will be changed from "Jesper Andersson" to -**Jesper Olsander**--.

Petitioners have presented an affidavit, signed with both names, setting forth that the name change occurred as a result of a court order.

Receipt of the court order reflecting the inventor's current name is acknowledged. The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioner's records.

The application is being referred to Technology Center Art Unit 2618 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

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APR 27 2010

OFFICE OF PETITIONS

In re Application of :
Aaron Neil Ingram, et al. :
Application No. 10/423,198 : DECISION ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 2B08.1-071 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 2, 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 February 3, 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 $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

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 undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business on the reply received February 9, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CHRISTIE, PARKER & HALE, LLP
P.O.BOX 7068
PASADENA, CA 91109-7068

In re Application of :
Paul YURT et al :
Application No. 10/423,216 :
Filed: April 24, 2003 :
For: **AUDIO AND VIDEO TRANSMISSION AND RECEIVING SYSTEM** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 27, 2003, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS M. FREIBURGER
P.O. BOX 1026
TIBURON CA 94920

COPY MAILED

MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Ingrid Carney :
Application No. 10/423,224 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 648P :

This is a decision on the petition, filed May 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3765 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : May 22, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s)	:Ingrid Carney
Application No.	:10/423,224
Filed	:April 25, 2003

The above-identified application has been assigned Patent No. 7,055,180 and an issue date of June 6, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 6, 2006:

> "All reference to Patent No. 7,055,180 to Ingrid Carney of California for MATERNITY GARMENT appearing in the Official Gazette of June 6, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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JAN 08 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Larry B. Guernsey, Esq.
IPLO
Intellectual Property Law Offices
1901 S. Bascom Avenue, Suite 660
Campbell, CA 95008

In re application of :
Robert Cantwell :
Application No.10/423,229 :
Filed: April 24, 2003
For: WATERPROOF TENT

DECISION ON PETITION TO MAKESPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed October 6, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 6, 2003 completes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps: 1/3/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of:	:	
Robert Cantwell	:	
Application No. 10/423,229	:	DECISION ON
Filed: April 24, 2003	:	PETITION
Title of Invention:	:	
WATERPROOF TENT	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 5, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed April 22, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 23, 2004. A Notice of Abandonment was mailed December 6, 2004.

With the instant petition, Applicant has filed an Amendment in response to the non-final Office action.

This application is being returned to Technology Center 3632 for processing of the 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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Smee et al.	:	
Application No. 10/423,234	:	DECISION ON PETITION
Filed: April 24, 2003	:	
Attorney Docket No. 030066	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2007 and October 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on July 10, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 2611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES MARC LEAS
37 BUTLER DRIVE
S. BURLINGTON, VT 05403

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Michael Alan Gevelber et al :
Application No. 10/423,237 : DECISION GRANTING PETITION
Filed: April 26, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 133-001 :

This is a decision on the petition, filed August 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 June 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 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 7, 2007

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No. 10/423240 patent no.6815327

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2822
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL1/3RD
SCHAUMBURG IL 60196

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of :
Mark C. Cudak et al :
Application No. 10/423,243 : DECISION GRANTING PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CML00914M :

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2005,[1] 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 formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of June 24, 2003, is accepted as having been unintentionally delayed.

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

The application file is being forwarded 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

[1]Evidence have been provided to show that the original petition and drawings were received in the USPTO on September 17, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/24/06

TO SPE OF : ART UNIT **2817**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/423261 6765448

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:

Column 4, line 45, "14" should be --52--.
Column 4, line 55, the second occurrence of "42" should be --38--.

SPE 2817 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 8, 2004

Patent No. :6,765,448
Inventor(s) :Wu et al.
Issued :July 20, 2004
Title :SELF-BIASED VCO
Doc./File No. :020600

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.

Applicants' proposed request to change data in column 4, line 45 is not warranted entry. The changes as presented in the Letters Patent are the result of a decision made by the examiner and is therefore considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 Ext. 123

QUALCOMM Incorporated
ATTN: Patent Department
5776 Morehouse Drive
San Diego, CA 92121-1714

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Arnold J. Cook
413 N. Pasadena Drive
Pittsburgh, PA 15215

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Arnold J. Cook	:	
Application No. 10/423,263	:	DECISION ON PETITION
Filed: April 25, 2003	:	
Attorney Docket No. AC-7 CONT II	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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 file a proper reply in a timely manner to the Notice of Non-Compliant Amendment mailed March 15, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2006. A Notice of Abandonment was mailed on December 9, 2008.

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

As to item (1) no reply to the Office action mailed March 15, 2006 was submitted with the petition.

As to item (2) the Office received a petition fee in the amount of $740.00. The amount due was $810.00. The remaining balance of $70.00 is due in order to consider a petition on its merits.

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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
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

YOON S. HAM, ESQ.
PIPER RUDNICK LLP
P.O. BOX 9271
RESTON, VA 20195

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Soo-Il CHOI et al. :
Application No.10/423,264 : DECISION GRANTING PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 312676-P0002 (D2) :

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed May 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the 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.

Telephone inquiries concerning this decision should be directed to Betsy L. Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The matter is being referred to Publishing Division.

Frances Hicks for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 20 2005

AGILENT TECHNOLOGIES
LEGAL DEPARTMENT, 51UPD
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 58043
SANTA CLARA CA 95052-8043

In re Application of	:
Jeffrey R. Sampson	:
Serial No.: 10/423,281	: PETITION TO MAKE SPECIAL
Filed: April 25, 2003	:
Attorney Docket No.: 10990393-1	:

This is in response to applicants' petition filed April 25, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ROBINS & PASTERNAK LLP
1731 EMBARCADERO ROAD, SUITE 230
PALA ALTO, CA 94303

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
Michael P. Wallace, et al. :
Application No.: 10/423,304 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No.: 8600.0013.01 :

This is a decision on the petition, filed February 11, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 30, 2007, 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 3734 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VISTA IP LAW GROUP, LLP
2040 MAIN STREET, 9TH FLOOR
IRVINE, CA 92614

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Christian S. EVERSULL, et al. :
Application No. 10/423,321 : DECISION GRANTING PETITION
Filed: April 24, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **STFD-001** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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LARRY R. MEENAN
KENNAMETAL INC.
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE, PA 15650

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DEC 23 2005

OFFICE OF PETITIONS

In re Application of :
Kevin M. Gamble et al. :
Application No. 10/423,328 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. K-1823P :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 14, 2005, to revive the above-identified application.

The petition filed December 14, 2005 is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 21, 2004. A response was filed November 19, 2004 with a one month extension of time request, but by Advisory Action of January 24, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application therefore became abandoned on October 22, 2004. Accordingly, a Notice of Abandonment was mailed June 8, 2005.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

All other requirements having been met, this application is being forwarded to Technology Center 3722 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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WAYNE L. LOVERCHECK ESQ.
THE QUINN LAW FIRM
2222 W. GRANDVIEW BLVD.
ERIE PA 16506-4508

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :
David C. Swartz : DECISION ON PETITION
Application No. 10/423,329 : UNDER 37 CFR 1.78(a)(3)
Filed: April 25, 2003 :
Attorney Docket No. 329.001 (Swartz) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application Nos. 10/137,825 filed May 1, 2002 and 09/903,737 filed July 11, 2001, as set forth in the concurrently filed amendment.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional 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 to Technology Center Art Unit 3652 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120, of the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 7,2005

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 6,815,177

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:

T. F. Smith — **SPE**

1645 — **Art Unit**

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Paper No. 7

THORP REED & ARMSTRONG, LLP
ONE OXFORD CENTRE
301 GRANT STREET, 14TH FLOOR
PITTSBURGH, PA 15219-1425

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MAR 10 2004

OFFICE OF PETITIONS

In re Application of :
Kevin Hutchinson et al. :
Application No. 10/423,331 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. DB001086-000 :

This is in decision on the petition, filed October 27, 2003, which is being treated as a petition under 37 CFR 1.47(a).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), petitioner states:

> On 8 September 2003, TRA sent a letter (marked "Exhibit A") to Bergeron). The purpose to the letter was to request Bergeron's assistance in reviewing the application to confirm TRA's conclusion as to Bergeron's inventive contribution and to execute a declaration and an assignment of the invention in favor of McKesson.
>
> The letter also forwarded to Bergeron a non-disclosure agreement (marked "Exhibit B'). The non-disclosure agreement was necessary to protect the additional confidential material developed by the remaining joint inventors after Bergeron's employment relationship with McKesson ended and which appears in the above-identified application. The non-disclosure agreement had previously been reviewed by Bergeron, and his requested changes to the agreement had been made.

Rule 47 applicants must demonstrate with documented evidence that the inventor refuses to join in the application after having been presented with the application papers (specification, claims and drawings). Since inventor Mike Bergeron was not presented with a copy of the application papers for the instant nonprovisional application, then he could not attest that he has reviewed and understands the application papers and could not execute the declaration which he was requested to sign. 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. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was make to present a copy of the application papers to the non-signing inventor for signature. Unless petitioner can show that a copy of the application papers was presented to the non-signing inventor or that the non-signing inventors refused to accept delivery of the papers or expressly stated that the application papers should not be sent, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the non-signing inventors last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. **The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegram, etc.** See MPEP 409.03(d).

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that the omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever the omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

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

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

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

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

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks

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

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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JUN 11 2008

OFFICE OF PETITIONS

In re Patent No. 7,303,094 :
Issue Date: December 4, 2007 :
Application No. 10/423,331 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 050704/304794 :

This is a decision on the petition filed January 28, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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GREGORY SCOTT SMITH
LAVA GROUP LAW BY SMITH & FROHWEIN, LLC
P. O. BOX 88148
ATLANTA, GEORGIA 30356

MAILED

MAR 1 2 2005

Technology Center 2100

In re Application of: Armstrong
Application No. 10/423,335
Attorney Docket No. 05002.1130
Filed: April 24, 2003
For: EMBEDDED USER INTERFACE IN A COMMUNICATION DEVICE

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 and M.P.E.P. §708.02(II)

This decision is in response to the petition filed March 19, 2004 under 37 CFR §1.102(d), requesting to make special of the above-identified application in view of M.P.E.P. §708.02(II): Infringement.

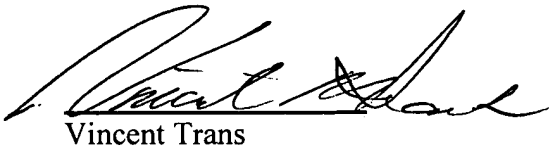
The petition is **GRANTED**.

M.P.E.P. §708.02, Section II, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §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:
>
> > Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:
> >
> > (A) That there is an infringing device or product actually on the market or method in use;
> > (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
> > (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
> >
> > Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. Models or specimens of the infringing product or that of the application should not be submitted unless requested.

In support for the petition, Petitioners provide the statements as required by sections A-C, recited earlier.

Accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of record for accelerated examination according to the procedure set forth in M.P.E.P. §708.02, Section II.



Vincent Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3613

HMJ: 12/02/2004

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LAW DEPARTMENT
4850 NORTH CHURCH LANE
SUITE D
SMYRNA, GA 30080

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Ikeda, Tamio :
Application No. 10/423,336 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. D-8054 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 26, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 27, 2003. A Notice of Abandonment was mailed on September 1, 2004.

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

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

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

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

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HENRY M. BISSELL
SUITE 106
6820 LA TIJERA BOULEVARD
LOS ANGELES CA 90045

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APR 14 2005

OFFICE OF PETITIONS

In re Application of	:
Erik F. Waelput	: DECISION DISMISSING
Application No. 10/423,340	: PETITION UNDER
Filed: April 25, 2003	: 37 CFR 1.137(b)
Attorney Docket No. 1489	:

This is a decision on the petition, filed December 3, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See 37 CFR 1.137(f).*

The petition is **DISMISSED** as moot.

Upon careful review of the USPTO records for the above-identified application, there is no receipt of a Rescission Of Request Not To Publish in the above-identified file. Additionally, the filing date of the foreign filing stated in the petition is October 24, 2001. The instant application was filed on April 25, 2003.

In view of the above, the petition is dismissed as moot.

Petitioner may request a refund of the petition fee ($685) by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of
Erik F. Waelput
Application No. 10/423,340
Filed: April 25, 2003
Attorney Docket No. 1489

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed June 21, 2005, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant 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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate PCT Application No. PCT/US01/51401, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/243,879, which was filed on October 26, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 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 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3747 for appropriate action on the amendment submitted June 21, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed

application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

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

ATTACHMENT : Corrected Filing Receipt

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STEPHEN DONOVAN
ALLERGAN, INC.
2525 Dupont Drive, T2-7H
Irvine CA 92612

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of :
ALAN H. ACKERMAN :
Application No. 10/423,384 : DECISION ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 17570 (BOT) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 20, 2006, which set a shortened statutory period for reply of three (3) months. No Extensions of time under the provision of CFR 1.136 (a) was obtained. Accordingly, the above-identified application became abandoned on June 21, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action of March 20, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on October 13, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the petitioner's Deposit Account No. 50-1275.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to

Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office

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

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence to the undersigned.

This application is being referred to Technology Center AU 1645 for appropriate action on the concurrently filed argument.

David Bucci
Petitions Examiner
Office of Petitions

CC: COZEN O'CONNOR. P.C.
1900 Market St.
Philadelphia, PA 19103

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24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

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OFFICE OF PETITIONS

In re Application of :
Sprouts et al. :
Application No. 10/423386 :
Filing or 371(c) Date: 04/25/2003 :
Attorney Docket Number: :
MBC-0504 : ON PETITION

This is a decision on the Request to Withdraw Holding of Abandonment, filed July 31, 2006. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final office action, mailed November 16, 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 response having been received, the application became abandoned on February 17, 2005. A Notice of Abandonment was mailed June 28, 2006.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on November 22, 2006. In support of this assertion, Applicant files a copy of the Reply and a copy of his Auto-Reply Facsimile Transmission Report indicating receipt by this office of 12 pages of transmission on November 22, 2006.

A review of office records also reveals that a reply to the Office was received in this Office on November 22, 2006.

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

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1755 for processing of the Reply.

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

Derek L. Woods
Attorney
Office of Petitions

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FULWIDER PATTON LEE & UTECHT, LLP
200 OCEANGATE, SUITE 1550
LONG BEACH, CA 90802

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Louis Chertkow, et al. :
Application No. 10/423,427 :
Filed: April 25, 2003 :
Attorney Docket No. ELKAY.62936 :

ON PETITION

This is a decision on the petition, filed August 29, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is GRANTED.

The application was held abandoned for a failure to respond to a non-final Office action mailed December 14, 2004. Petitioner indicates that a response was timely filed on February 24, 2005. In support, petitioner provides a copy of the response, including the postcard receipt dated February 24, 2005.

It is noted that the copy of the amendment and the postcard receipt contain an incorrect application number. Nevertheless, 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 it 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 correct application.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

This application is being referred to Technology Center AU 3727 for consideration of the response filed February 24, 2005.

Telephone inquires related to this decision may 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

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WOODCOCK WASHBURN, LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Deharde, et al. : DECISION GRANTING
Application No. 10/423,435 : PETITION
Filed: April 25, 2003 :
Attorney Docket No. UFSI-0005 :

This is a decision on the petition under 37 CFR 1.10(d), filed May 14, 2003, requesting that the above-identified application be accorded a filing date of April 25, 2003, rather than the presently accorded filing date of April 26, 2003.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EV334360258US) on April 25, 2003, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail mailing label identified in the original application papers indicates a "date-in" of April 26, 2003. Applicants allege that the date of mailing indicated by the Express Mail mailing label is a U.S. Postal Service (USPS) error and the correct date of mailing is April 25, 2003.

In support, the petition is accompanied by a copy of the Express Mail mailing label that indicates a "date-in" of April 26, 2003, but has a USPS mail stamp of April 25, 2003, and a copy of the USPS Shipment History for Express Mail Package #EV334360258US that indicates acceptance of this package by the USPS on April 25, 2003.

The USPS mail stamp and the USPS Shipment History both indicate Express Mail Package #EV334360258US was deposited with the USPS on April 25, 2003.

In view of the evidence present in the file, it is concluded that the "date-in" indicated on the Express Mail mailing label is

incorrect and that the correct date of deposit in Express Mail service is April 25, 2003.

Accordingly, the application is entitled to a filing date of April 25, 2003.

The $130.00 petition fee, submitted May 14, 2003, will be refunded to deposit account no. 23-3050.

The application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt with a filing date of April 25, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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Paper No. 6

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of
Just, et al.
Application No. 10/423,440
Filed: April 25, 2003
Attorney Docket No. ISIS-5139
For: PREPARATION OF
PHOSPHOROTHIOATE OLIGOMERS

: 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 September 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application -- no. 08/546,198-- 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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(I) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on September 22, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by

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[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

reference the prior-filed application.

Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement with respect to application no. 08/545,198, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition by facsimile transmission to the number indicated below and to the attention of Senior Petitions Attorney E. Shirene Willis.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Just, et al.
Application No. 10/423,440
Filed: April 25, 2003
Attorney Docket No. ISIS-5139
For: PREPARATION OF
PHOSPHOROTHIOATE OLIGOMERS

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed January 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application -- no. 08/546,198-- 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) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on April 25, 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).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending 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). A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application. *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.

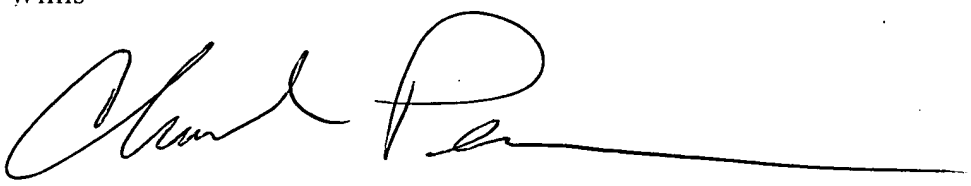
A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

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.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 1623 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis



Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Paper No. 5

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

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OFFICE OF PETITIONS

In re Application of
Zhang
Application No. 10/423,485
Filed: April 25, 2003
Attorney Docket No. 823.0142USU
For: CHIRAL PHOSPHORUS CYCLIC COMPOUNDS FOR TRANSITION METAL-CATALYZED ASYMMETRIC REACTIONS

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed June 16, 2003 (certificate of mailing date June 12, 2003), under 37 CFR 1.183 requesting waiver of 35 USC 122(b)(2)(B)(I), so that petitioner may file a nonpublication request after the filing of the application.

The petition under 37 CFR 1.183 requesting waiver of 35 USC 122(b)(2)(B)(I) is **DISMISSED**.

35 USC 122(b)(1)(A) states in pertinent part, " Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title...".

35 USC 122(b)(2) states: "EXCEPTIONS".

35 USC 122(b)(2)(B)(I) states, " 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)" (Emphasis added).

A review of the papers filed on April 25, 2003 reveals that there was no nonpublication request present. There are very limited exceptions to the rule that all applications filed after November 29, 2000 shall be published. Where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. V. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). A late request for nonpublication cannot be effective because the statute cannot be waived.

Applicant has two options available to him. Applicant may expressly abandon the application by filing a petition under 37 CFR 1.138(c) and, at the same time, a continuation application under 37 CFR 1.53(b), including a nonpublication request upon the filing of the continuation application. The continuation application may claim benefit under 35 U.S.C. § 120 to the prior application. Alternatively, if the application does not claim priority to another application (see 35 U.S.C. § 111(b)(7)), applicant may file a petition to convert the application into a provisional application (see 37 CFR 1.53(c)). Thereafter, applicant may file a non-provisional application with a nonpublication request and claim the benefit of the prior provisional application in the non-provisional application under 35 U.S.C. § 119(e).

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

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

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

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of
Anthony M. Fadell, et al.
Application No. 10/423,490
Filed: April 25, 2003
US Publication No. 2004/0224638
Published: November 11, 2004
For: **MEDIA PLAYER SYSTEM**

NOTIFICATION OF IDENTIFICATION OF PRIOR ART IN A THIRD PARTY SUBMISSION UNDER 37C.F.R. § 1.99

This is a decision on the third party submissions filed in the subject application on December 21, 2004, pursuant to 37 CFR 1.99.

37 C.F.R. § 1.99 Third-party submission in published application, states:

> (a) A submission by a member of the public of patents or publications relevant to a pending published application may be entered in the application file if the submission complies with the requirements of this section and the application is still pending when the submission and application file are brought before the examiner.
> (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.
> (d) A submission under this section shall not include any explanation of the patents or publications, or any other information. The Office will not enter such explanation or information if included in a submission under this section. A submission under this section is also limited to ten total patents or publications.
> (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.
> (f) A member of the public may include a self-addressed postcard with a submission to receive an acknowledgment by the Office that the submission has been received. A member of the public filing a submission under this section will not receive any communications from the Office relating to the submission other than the return of a self-addressed postcard. In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a submission under this section.

The third party submission complies with the requirements set forth above. Accordingly, the third party submissions will be entered into the application file.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of
Anthony M. Fadell, et al.
Application No. 10/423,490
Filed: April 25, 2003
US Publication No. 2004/0224638
Published: November 11, 2004
For: **MEDIA PLAYER SYSTEM**

NOTIFICATION OF IDENTIFICATION OF PRIOR ART IN A THIRD PARTY SUBMISSION UNDER 37C.F.R. § 1.99

This is a decision on the third party submissions filed in the subject application on December 21, 2004, pursuant to 37 CFR 1.99.

37 C.F.R. § 1.99 Third-party submission in published application, states:

> (a) A submission by a member of the public of patents or publications relevant to a pending published application may be entered in the application file if the submission complies with the requirements of this section and the application is still pending when the submission and application file are brought before the examiner.
>
> (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.
>
> (d) A submission under this section shall not include any explanation of the patents or publications, or any other information. The Office will not enter such explanation or information if included in a submission under this section. A submission under this section is also limited to ten total patents or publications.
>
> (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.
>
> (f) A member of the public may include a self-addressed postcard with a submission to receive an acknowledgment by the Office that the submission has been received. A member of the public filing a submission under this section will not receive any communications from the Office relating to the submission other than the return of a self-addressed postcard. In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a submission under this section.

The third party submission complies with the requirements set forth above. Accordingly, the third party submissions will be entered into the application file.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Anthony M. Fadell	: DECISION ON REQUEST FOR
Patent Number	: 7627343	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/423,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **492** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Anthony M. Fadell
Patent Number : 7627343
Issue Date : 12/01/2009
Application No: 10/423,490
Filed : 04/25/2003

: 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 **525** 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

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United States Patent and Trademark Office
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MARK LEVY & ASSOCIATES, PLLC
PRESS BUILDING, SUITE 902
19 CHENANGO STREET
BINGHAMTON, NY 13901

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MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Giroti, et al. :
Application No. 10/423,522 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. AZURN-003 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 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 on August 26, 2003. A Notice of Abandonment was mailed on September 1, 2004.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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MAY 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,163,698 :
Application No. 10/423,536 :
Filed: April 25, 2003 : ON PETITION
Issued: January 16, 2007 :
Attorney Docket No. 428.1003-CON :

This is a decision on the request filed February 20, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the names of the assignees to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 7,163,698	:	
Issue Date: January 16, 2007	:	
Application No. 10/423,536	:	ON PETITION
Filed: April 25, 2003	:	
Attorney Docket No. 428.1003-CON	:	

This is a decision on the petition under 37 CFR 1.182 filed July 12, 2007 to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

The USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignees' names.

The matter is being referred to the Certificates of Correction Branch for reprinting the front page of the original Letters Patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Telephone inquiries regarding the reprinting of the front page of the Letters Patent should be directed to the Certificates of Correction Branch at (703) 305-8309.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, Crystal Park 3-910 (FAX 305-4372)

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Jason Gene Csida et al :
Application No. 10/423,547 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 15,663.4 :

This is a decision on the petition, filed September 21, 2005, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment. This is also a decision on the petition under 37 CFR 1.137(b), filed September 21, 2005.

The petition under 37 CFR 1.181(a) is **GRANTED**.

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

The application was held abandoned for failure to timely reply to the Notice of Appeal filed February 11, 2005.

The petition states that an Appeal Brief accompanied by a One Month Extension of Time was timely submitted on May 11, 2005. To support this assertion, the petitioner has submitted a copy of a facsimile transmission status report confirming the successful facsimile transmission to the USPTO for 39 pages (the Appeal Brief and One Month Extension Of Time), on May 11, 2005.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

As to the matter under 37 CFR 1.137(b):

The petition under 37 CFR 1.137(b) is dismissed as moot in view of the decision granting the petition under 37 CFR 1.181(a). Additionally, the petition fee of $1,500 will be credited to deposit account no. 11-0875 as authorized.

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

This matter is being forwarded to Technology Center AU 3721.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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CO-Office of Patent Counsel
53510 Silvergate Avenue
Room 103
San Diego, CA 92152-5765

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Pugh, et al. :
Application No.: 10/423,568 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No: 83948 :

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

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 non-final Office action mailed March 9, 2006. The notice set a shortened statutory period for reply of three months from its mailing date. Extensions of the period set for reply were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period, and the application became abandoned on June 10, 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 (2) above.

The fee for the instant petition is $1500.00 for a large entity or $750.00 for a small entity, however; the fee was not found with the instant petition. The undersigned did not find an authorization to charge a deposit account for the petition fee either. The petition must be dismissed, accordingly. The petition fee, or an authorization to charge a deposit account for the same, must accompany the renewed petition.

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CO-Office of Patent Counsel
53510 Silvergate Ave Rm 103
San Diego, CA 92152-5765

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of

Pugh, et al.

Application No. 10/423,568

Filed: April 25, 2003

Attorney Docket No. 83948

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 2, 2007, to revive the above-identified application.

The renewed 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 9, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on April 25, 2007.

The amendment filed September 27, 2006, and in duplicate on April 2, 2007, is noted.

The application is being forwarded to Technology Center 2800, GAU 2857 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Michael Lykke et al. :
Application No. 10/423,594 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. P-11338.00US :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 13, 2006 which set a three month statutory period for response. In lieu of payment of the issue fee, and with the instant petition, a Request for Continued Examination (RCE) with an Information Disclosure Statement (IDS) as the submission required under 37 CFR 1.114 was filed.

The Office notes that payment of the issue fee is the required reply in order to revive the application for failure to submit a timely response to the Notice of Allowance, not an RCE and IDS.

However, in view of the general authorization included with the RCE, and in view of the petition to revive, the office has charged the issue fee to petitioner's deposit account no. 50-1778.

[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)).

Petitioner is advised that the issue fee paid in the present application cannot be refunded. However, if the application is allowed again, petitioner may request that the $1,400.00 be applied towards the issue fee required by the new Notice of Allowance.[2]

Even though no decision had been rendered to revive the abandoned application pursuant to the petition to revive filed June 5, 2006, a second Notice of Allowance was mailed June 27, 2006, to which an RCE and IDS were filed in response.

The application is being forwarded to Technology Center 3736 for processing of the RCE.

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

[2] The request to apply the issue fee to the new Notice of Allowance must be made in writing and should be accompanied by the new Issue Fee Transmittal Form (PTOL-85(b)), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due at the time of payment must be submitted. **Failure to timely request in writing that the previously paid issue fee be applied towards the new Notice of Allowance and payment of any balance due will result in the abandonment of the application.**

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Gregory T. Kavounas
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE M.S. LC340
MINNEAPOLIS, MN 55432-5604

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OFFICE OF PETITIONS

In re Application of Sullivan :
Application No. 10/423,602 : Decision on Petition
Filing Date: April 24, 2003 :
Attorney Docket No. PB10014.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on Tuesday, May 15, 2007. A Notice of Abandonment was mailed on June 8, 2007.

The instant petition requests revival of the application.

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,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has submitted the required petition fee of $1,540.

Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Attorney Mary Redman signed the petition. Ms. Redman was not an attorney of record at the time the application became abandoned and is currently not an attorney of record. Therefore, it appears

Ms. Redman *may* not be in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Ms. Redman that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay 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.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Pursuant to the Power of Attorney to Prosecute Applications Before the USPTO filed July 24, 2008, the address of record has been changed to the address associated with Customer No. 53049 and the attorneys and/or agents associated with the customer number have been made of record.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

UNITED STATES 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 Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
BINGHAMTON NY 13901

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SEP 15 2008

In re Application of
Giroti
Application No. 10/423,615
Filed: April 25, 2003
Attorney Docket No. AZURN-004
For: CONVERGED CONFERENCING APPLIANCE AND METHODS FOR CONCURRENT VOICE AND DATA CONFERENCING SESSIONS OVER NETWORKS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed July 24, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed January 10, 2008, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on April 11, 2008 for failure to reply to the January 10, 2008 non-final Office action. A Notice of Abandonment was mailed on July 17, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely received in the Office on July 10, 2008. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on July 11, 2008. The mailroom date for the payment was July 10, 2008. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the July 17, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 2614 for consideration of the amendment filed on July 10, 2008.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 24 2010

OFFICE OF PETITIONS

Mark Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
BINGHAMTON NY 13901

In re Application of
Giroti
Application No. 10/423,615
Filed: April 25, 2003
Attorney Docket No. AZURN-004

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 11, 2009. Accordingly, the date of abandonment of this application is September 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 payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

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

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

Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of :
Bradley Jordan :
Application No. 10/423,619 : DECISION ON PETITION
Filed: April 24, 2003 : TO WITHDRAW
Attorney Docket No. 32674 : 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 23, 2007.

The request is **APPROVED**.

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

The request was signed by Thomas B. Luebbering on behalf of all attorneys of record. All attorneys/agents have been withdrawn.

The correspondence address of record has been changed since it is that of the assignee who has intervened in accordance with 37 CFR 3.71.

A final rejection was mailed on May 17, 2007. Failure to timely respond will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Bradley Jordan
c/o Quick Imprint Systems, Inc.
P.O. Box 7
32 Blackstock Lane
Goodman, MO 64843

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/423,619	04/24/2003	Bradley Jordan	32674

CONFIRMATION NO. 8532

Hovey Williams LLP
2405 Grand Boulevard, Suite 400
Kansas City, MO 64108

OC000000024216680

Date Mailed: 06/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/23/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ICE MILLER LLP
ONE AMERICAN SQUARE
SUITE 3100
INDIANAPOLIS, MN 46282-0200

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JUN 01 2007

OFFICE OF PETITIONS

In re Application of :
Carl T. Wittwer et al :
Application No. 10/423,621 : DECISION ON PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. P01479US01 :
(21932.0005)

This is in response to the communication sent by facsimile transmission on May 31, 2007. The communication requests that this application not issue until the request to correct the inventorship under 37 CFR 1.48(a) has been granted. Although no formal petition under 37 CFR 1.313(c)(2) was submitted, in view of the statement presented in the communication and the filing of a request for a continued examination, the communication is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 27, 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 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the request to correct inventorship under 37 CFR 1.48(a).

Frances Hicks
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/20/2010

Applicant	: Jurgen Lohr	: DECISION ON REQUEST FOR
Patent Number	: 7590125	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/423,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1396** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Takehiko Suginouchi, et al. :
Application No. 10/423,630 : ON PETITION
Filed: April 25, 2003 :
Atty Docket No. 10407-49US (A2088MT-US1) :

This is a decision on the petition, filed October 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2855 for further processing of the request for continued examination under 37 CFR 1.114 filed October 7, 2004.

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

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

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Yasuo Ojima	: DECISION ON REQUEST FOR
Patent Number	: 7647341	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/423,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **486** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GKN DRIVELINE NORTH AMERICA, INC
3300 UNIVERSITY DRIVE
AUBURN HILLS MI 48326

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Brent Peura :
Application No. 10/423,643 : ON PETITION
Filed: April 25, 2003 :
Title: Active BI-Directional Overrunning Clutch Indexing :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 2, 2006.

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

This application was held abandoned September 7, 2005 for failure to timely reply to the final Office Action mailed on June 6, 2005. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed January 9, 2006.

Petitioner asserts that a reply to the final Office Action was timely submitted on August 3, 2005. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission, a copy of the sending unit's report confirming transmission, and a copy of the Office's auto reply pursuant to 37 CFR 1.8.

The response submitted August 3, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3600 for further processing.

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

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Gibbons, Del Deo, Dolan, Griffinger & Vecchione
1 Riverfront Plaza
Newark, NJ 07102-5497

In re application of : **DECISION ON PETITION**
Philippe R. Murcia, et al. : **TO MAKE SPECIAL**
Application No. 10/423,644 : **(ACCELERATED**
Filed: April 25, 2003 : **EXAMINATION)**
For: CLEAN FOREST REGION CERTIFICATION :

This is in response to the petition filed on May 26, 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(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

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

RAR/vdb: 10/12/04

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AUG 29 2006

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK NJ 07102-5497

In re Application of:
MURCIA, PHILIPPE R.
Serial No.: 10/423,645
Filed: April 25, 2003
Docket: 103533-48961
Title: FOREST REJUVENATION AND PRESERVATION

DECISION ON PETITION

This is a decision on the petition filed Sept. 29, 2005 to request assignment of the application to an art unit and an examiner.

The petition is **dismissed as mooted**.

The application was originally filed on April 25, 2003. After many months of delay in transfers and classification of the case, the application was assigned to Art Unit 3725 with Examiner Shelley Self. The past delays in acting on the applicant's application were regretted. The examiner is aware of the Office policy to work on the applications with the oldest effective US filing dates in strict compliance of MPEP 708[1]. This application will be acted upon in the near future.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3725 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

[1] Relevant portion of **MPEP 708 Order of Examination** states: Each examiner will give priority to that application in his or her docket, whether amended or new, which has the oldest effective U.S. filing date. Except as rare circumstances may justify Technology Center Directors in granting individual exceptions, this basic policy applies to all applications.

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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

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OFFICE OF PETITIONS

In re Application of :
Orr et al. :
Application No. 10/423,657 : DECISION ON PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. HEL565/02808 :

This is a decision on the petition, filed May 7, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on April 22, 2004. The instant petition received in the USPTO on May 7, 2004 will be treated as a Notice to Rescind.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* 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 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/ patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $130.00 is being credited to petitioner's deposit account as authorized.

This application is being forwarded to Technology Center Art Unit 3672 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

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

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#4

NATTER & NATTER
25 WEST 43 STREET
NEW YORK, NY 10036-7469

In re Application of	:	
Joseph C. Cauthen	:	
Serial No.: 10/423,664	:	DECISION ON PETITION
Filed: April 25, 2003	:	
For: Tooth Whitening Appliance	:	

This is in response to applicants' petition filed May 08, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

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

John E. Kittle
Director,
Technology Center 3700/2900

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Patent No. 6,943,968 :
Issue Date: September 13, 2005 :
Application No. 10/423,670 : LETTER
Filed: April 25, 2003 :
Attorney Docket No. MIT9762 :

This is in response to the notice filed by facsimile on July 24, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

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.

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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney/agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries concerning this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Daniel O' Brien
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493

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

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MAY 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Sullivan et al.	:	
Application No. 10/423,680	:	ON PETITION
Filed: 25 April, 2003	:	
Atty Docket No. AZ-12	:	

This is a decision on the petition under 37 CFR 1.137(a) and (b), filed on 22 April, 2005, to revive the above-identified application.

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

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

The application became abandoned on 17 February, 2005, for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on 16 November, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 21 March, 2005.

Petitioners assert that a revocation and power of attorney and change of correspondence address was filed on 30 June, 2004, because the attorney of record had died, but that the Notice of Allowance and Issue Fee Due mailed on 16 November, 2004, was erroneously mailed to the address of the deceased attorney. Petitioners note that a review of the PAIR system reveals that the power of attorney and change of correspondence address was made of record on 17 November, 2004, the day after the date of mailing of the Notice of Allowance and Issue Fee Due.

The application is restored to pending status.

It is noted that although the Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address

filed on 30 June, 2004, states that a statement under 37 CFR 3.73(b) is attached, no attached statement under 37 CFR 3.73(b) is located among the papers received on 30 June, 2004. Additionally, no copy has been provided with the present petition. As such, petitioners should file a proper Revocation and Power of Attorney and Change of Correspondence Address, accompanied by a statement under 37 CFR 3.73(b), if required.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

Hiok-Nam Tay
6 Mount Vernon
Irvine, CA 92620

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OCT 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Bencuya et al. :
Application No. 10/423,681 :
Filed: April 25, 2003 : Letter
Attorney Docket No. 0190101 :
For: REDUCING RESET NOISE IN CMOS IMAGE SENSORS :

Dear Mr. Tay:

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: FARJAMI & FARJAMI LLP
16148 SAND CANYON
IRVINE, CA 92618

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Paper No. 5

FARJAMI & FARJAMI LLP
16148 SAND CANYON
IRVINE, CA 92618

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of	:
Bencuya et al.	: DECISION ACCORDING
Application No. 10/423,681	: STATUS UNDER
Filed: April 25, 2003	: 37 CFR 1.47
Attorney Docket No. 0190101	:
For: REDUCING RESET NOISE IN CMOS IMAGE SENSORS	:

This is in response to the petition under 37 CFR 1.47(a) filed August 4, 2003.

The petition is granted.

Petitioner has shown that 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

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OFFICE OF PETITIONS

PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS MO 63131

Paper No. 6

In re Application of
Ian A. Ferguson et al.
Application No. 10/423,683
Attorney Docket No. IF-LIG-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

The petition is **GRANTED**

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed June 23, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 24, 2003.

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, abstract and oath or declaration; (2) the petition fee of $750; 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 23, 2003 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application is being referred to the Office of Initial Patent Examination.

David A. Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: Binh T. Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 6739975	: RECALCULATION of PATENT
Issue Date	: 05/25/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 10/423,691	: OF WYETH
Filed	: 04/25/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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Paper No. 3

CARY S. KAPPEL
DAVIDSON DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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DEC 12 2003

OFFICE OF PETITIONS

In re Application of
Hensing Hanno
Application No. 10/423,697
Filed: April 25, 2003
Attorney Docket No. 5007.1014

NOTICE

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

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

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

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

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

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

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

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

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

This file is being forwarded to Technology Center AU 2157.

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

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of

Qin, et al. :

Application No. 10/423,709 :

: DECISION ON PETITION

Filed: April 25, 2003

:

Attorney Docket No. KCC 4961 (K-C19,090)

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 2004, 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 March 17, 2005. A Notice of Abandonment was mailed on July 11, 2005.

A continuing application was filed on July 15, 2005.

The application is being forwarded to Technology Center 1700, GAU 1771 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHLUMBERGER CONVEYANCE AND DELIVERY
ATTN: ROBIN NAVA
555 INDUSTRIAL BOULEVARD, MD-1
SUGAR LAND, TX 77478

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JUN 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Joseph P. Varkey et al :
Application No. 10/423,716 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 25.0209 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 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 September 12, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 13, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 03-0330 was charged a total of $1,588.00 -- $1,330.00 for the petition to revive an unintentionally abandoned application and $258.00 for three (3) independent claims fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 2831.

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

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RICHARD C. CALDERWOOD
2775 NW 126TH AVE
PORTLAND, OR 97229-8381

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Enrique M. Stiles :
Application No. 10/423,726 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. STEP003 :

This is a decision in response to the petition, filed December 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 6, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On October 20, 2006, a Notice of Abandonment was mailed. In response, on December 7, 2006 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

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 $1,080 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 2615 for consideration of the response filed December 7, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BARRY H. JACOBSEN
WARNER-LAMBERT COMPANY
LEGAL DIVISION
201 TABOR ROAD
MORRIS PLAINS, NJ 07950

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Kulkarni et al. :
Application No. 10/423,735 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 5746/P2-03-BHJ :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 2, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on July 2, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

CC: JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Kamperman et al.	:	
Application No. 10/423,737	:	ON PETITION
Filed: April 25, 2003	:	
Attorney Docket No. PHN 17-109A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 6, 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 a Preliminary Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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NASHUA NH 03061

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Matthew A. Taylor, et al. :
Application No. 10/423,740 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No.: D4622-US :
:

This is a decision on the petition, filed January 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2631 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No.

BART JUSTIN CHARLES
PO BOX 6131
IRVINE CA 92616

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Bart Charles	:	DECISION ON
Application No. 10/423,759	:	PETITION
Filed: April 25, 2003	:	
Attorney Docket No. DE-1453	:	

This is a decision on the "PETITION UNDER 37 C.F.R. 1.181," filed October 30, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 19, 2005. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under §1.136(a). A Notice of Abandonment was mailed on May 26, 2006.

Applicant requests that the USPTO reverse the abandonment of the patent due to an error on the part of the USPTO. Applicant points to a revocation of power of attorney and change of address filed July 1, 2004. In effect, applicant argues that the Office erred in mailing the non-final Office action to the previous address.

A review of the record reveals that the Revocation of Power of Attorney as stated by sole inventor Charles was received in the Office on July 14, 2004, but not made of record. Thus, the non-final Office action was not mailed to the new address and was not received by applicant.

In view thereof, the Notice of Abandonment mailed May 26, 2006 is **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181 and no fee has been charged.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on July 14, 2004 has now been made of record.

Technology Center AU 1761 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed May 19, 2005 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JOAN MARGARET JACOBS
9355 BASS ROAD
KELSEYVILLE, CA 95451

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of :
Joan Margaret Jacobs :
Application No. 10/423,762 : DECISION ON PETITION
Filed: April 28, 2003 :
For: HEART WARMER :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2006, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 filed of even date to change the inventor's name from "Joan Margaret Jacobs Ziebell" to -- Joan Margaret Jacobs --.

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

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

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 11, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 12, 2004. A Notice of Abandonment was mailed on November 12, 2004. A Notice of Abandonment was mailed on March 15, 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). The instant petition lacks item (1).

The petition to revive must be accompanied by the required reply to the outstanding Office action; *i.e.*, the Office action of August 11, 2004. In view of the statements presented, it appears that petitioner may not have received the August 11, 2004 Office action. Accordingly, a copy thereof accompanies this decision on petition. In any renewed petition, petitioner should also indicate if she did have in her possession a copy of the August 11, 2004 Office action and, if so, when it was received. Also, petitioner must indicate if she received the Notice of Abandonment of March 15, 2005.

In sum, the renewed petition under 37 CFR 1.137(b) must be filed within two months from the mailing date of this decision (no additional fee required), which period is extendable under 37 CFR 1.136(a) (which requires a fee), must be accompanied by the reply to the outstanding Office action of August 11, 2004, and must indicate if (and, if received, when) the Office action of August 11, 2004 and the Notice of Abandonment of March 15, 2005 were received.

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.**

DISCUSSION OF PETITION UNDER 37 CFR 1.182

The petition complies with the provisions of 37 CFR 1.182 and MPEP Section 605.04(c) for requesting a change of name. Accordingly, Office records have been modified to reflect the inventor's change of name. A Corrected Filing Receipt, which reflects the inventor's change of name (and address), accompanies this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENTS: Copy of Office action of August 11, 2004
Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/423,762	04/28/2003	3727	375		1	1

CONFIRMATION NO. 1678

JOAN M. ZIEBELL
9355 BASS ROAD
KELSEYVILLE, CA 95451

CORRECTED FILING RECEIPT

OC000000024754673

Date Mailed: 07/11/2007

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

Applicant(s)

Joan Margaret Jacobs, Kelseyville, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

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 US10/423,762

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Heart warmer

Preliminary Class

229

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/423,762	04/28/2003	Joan Margaret Jacobs Ziebell		1678

7590 08/11/2004

JOAN M. ZIEBELL
ONION PATCH PRODUCTIONS
8000 Hwy. 29
Kelseyville, CA 95451

EXAMINER	
PASCUA, JES F	
ART UNIT	**PAPER NUMBER**
3727	

DATE MAILED: 08/11/2004

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

Office Action Summary	Application No.	Applicant(s)
	10/423,762	JACOBS ZIEBELL, JOAN MARGARET
	Examiner	Art Unit
	Jes F. Pascua	3727

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

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

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

2. The claim is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim is narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim must be in one sentence form only. Note the format of the claims in the patents cited.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The claim is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,005,493 to Blackwell. Blackwell discloses a mailable fabric pocket upon which a printed message is placed. Regarding the statements that "the recipient can then place the fabric pocket containing the message in or on his or

her clothing" and that it "can be used as a vehicle for housing small gifts", it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. In this case, the only structural limitations claimed by applicant is "a fabric pocket".

Conclusion

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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

on _____.
(Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)_____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 703-308-1153. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP

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OFFICE OF PETITIONS

3554 ROUND BARN BOULEVARD, SUITE 303
SANTA ROSA, CA 95403

In re Application of :
Joan Margaret Jacobs :
Application No. 10/423,762 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 209.01 :

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

The petition is **GRANTED**.

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

The petition decision mailed July 11, 2007 indicates the petition under 37 CFR 1.137(b) filed October 16, 2006 was dismissed as failing to provide the required reply to the Office action mailed August 11, 2004.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

The power of attorney filed September 6, 2007 has been processed.

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

The application file is being referred to Technology Center Art Unit 3727 for consideration of the amendment filed September 6, 2007.

David Bucci
Petitions Examiner
Office of Petitions

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Barnes & Thornburg
11 South Meridian
Indianapolis In 46204

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OFFICE OF PETITIONS

In re Application of
Launer et al.
Application No. 10/423,764
Filed: April 25, 2003
Attorney Docket No. 9518-64433

DECISION GRANTING PETITION

This is a decision on the petition filed July 14, 2003, requesting that the above-identified application be accorded a filing date of April 25, 2003, with pages 11 and 12 of the specification as part of the original disclosure.

On April 25, 2003, applicants filed the above-identified application. On June 25, 2003, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers, stating, in pertinent part, that the application had been accorded a filing date of April 25, 2003, and advising applicants that pages 11 and 12 of the specification appeared to have been omitted.

In response, on July 14, 2003, applicants filed, inter alia, the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of "Utility Patent Specification (12 pages)." Additionally, applicants submitted a copy of pages 11 and 12 of the specification with the present petition.

Upon review of the record, pages 11 and 12 of the specification, deposited on April 25, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 25, 2003, included pages 11 and 12, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 11 and 12 of the specification, was complete on filing and will be granted a filing date of April 25, 2003.

Accordingly, the petition is granted. The requirement for submission of the omitted items was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 10-0435.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of April 25, 2003, using pages 11 and 12 of the specification submitted on petition, and for the mailing of a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

NORRIS MCLAUGHLIN & MARCUS, P.A.
P.O. BOX 1018
SOMERVILLE, NJ 08876

In re application of:
Oleg Logvinov, et al.
Application No. 10/423,787
Filed: April 25, 2003
For: POWER LINE COMMUNICATIONS SYSTEM AND METHOD FOR PROVIDING MULTIPLE SERVICES FROM AN ISOLATED POWER GENERATING PLANT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on June 16, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 23526 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Mr. James Reeber
Arkados, Inc.
948 U.S. Highway #22 East
North Plainfield, NJ 07060

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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OFFICE OF PETITIONS

In re Application of :
James Walton :
Application No. 10/423,799 : DECISION ON PETITION
Filed: 25 April, 2003 :
Atty. Docket No. 2360.001 :

This is a decision on the petition filed on 21 February, 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 period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were

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

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

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

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

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

obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed an amendment in response to the non-final Office action.

Receipt of the change of correspondence address is acknowledged.

This application is being referred to Technology Center Art Unit 3732 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Jason D. Kelly
Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
St. Paul, MN 55125

Mail Date: 04/20/2010

Applicant	: Paul S. Tamura	: DECISION ON REQUEST FOR
Patent Number	: 7570994	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/423,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **690** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THOMPSON E. FEHR
SUITE 300
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE
OGDEN UT 84403

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OFFICE OF PETITIONS

In re Application of	:	
James P. Murphey	:	
Application No. 10/423,808	:	DECISION GRANTING
Filed: 25 April, 2003	:	PETITION
Attorney Docket No. PMURPC	:	

This is a decision on the petition filed on 24 December, 2003, under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 25 April, 2003, rather than the presently accorded filing date of 26 April, 2003.

Petitioner alleges that the application was deposited in Express Mail service on 25 April, 2003. In support, on 24 December, 2003, petitioner supplied a copy of a USPS Express Mail Post Office to Addressee label bearing Express Mail label No. EU877546810US (the same Express Mail number found on the cover sheet and transmittal sheets accompanying the original application papers located in the official file) and a "date-in" of 04/25/03. The Express Mail label also bears an official USPS postmark dated 25 April, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to 25 April, 2003, and for issuance of a corrected filing receipt.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden, UT 84403

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OCT 1 2 2004

OFFICE OF PETITIONS

In re Application of :
James Murphey :
Application No. 10/423,808 : DECISION ON PETITION
Filed: April 25, 2003 :
Title: METHOD FOR COMPARING AND CORRELATING ANALYSES OF CHANGES IN CELLS AND TISSUES :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed June 25, 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 of Application" mailed June 25, 2003. This Notice required applicant to submit an executed oath or declaration, the late surcharge under §1.16(e), and additional claim fees due. The period for reply was set at two (2) months from the mail date of the Notice, with extensions of time obtainable under §1.136(a).

On December 24, 2003, applicant filed a reply, made timely by an accompanying petition for an extension of time within the fourth month. The reply included *inter alia* payment in the amount of $42 for the additional claim fees.

However, on April 26, 2004, the Office mailed a "Notice of Incomplete Reply (Nonprovisional)," informing applicant that the reply had been entered, but that the additional claim fees submitted were insufficient. Applicant was required to submit $1 to complete the total additional claim fee of $43. The Notice further stated that the period for reply remained as set forth in the Notice mailed June 25, 2003, with extensions of time obtainable under § 1.136(a). However, the extendable period having expired, the above-identified application was already abandoned effective January 26, 2004. The filing of this petition precedes the mailing of a Notice of Abandonment.

Nonetheless, petitioner has met the requirements for revival pursuant to § 1.137(b). The petition includes the required reply in the form of payment of the $1 outstanding; the petition fee of $665; and the required statement of unintentional delay.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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22ND FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Nils Dieckmann et al	:	
Application No. 10/423,813	:	DECISION GRANTING PETITION
Filed: April 25, 2003	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 89816	:	

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 13

Quine Intellectual Property Law Group, P.C.
P.O. Box 458
Alameda, CA 94501

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OFFICE OF PETITIONS

In re Application of :
Alan M. Fogelman, et. al. :
Application No. 10/423,830 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 407T-911250US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 9, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit a complete reply in a timely manner to the Notice to File Missing Parts of Application mailed June 10, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight January 10, 2004.

In response, petitioner submitted a Power of Attorney, an Oath/Declaration, a Statement under 37 CFR 3.73(b), an amendment, a Sequence Listing, and an authorization to charge $650 for the petition to revive fee. However, effective October 1, 2003 the petition to revive fee was increased to $665. Therefore, a total of $665 for the petition fee has been charged to petitioner's deposit account.

The petition is **GRANTED**.

The Power of Attorney filed February 9, 2004, has been accepted and made of record.

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 (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Patent No. 7,199,102 :
Issue Date: April 3, 2007 :
Application No. 10/423,830 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. UCLAP012X5 :

This is a decision on the petition filed August 24, 2009, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Theresa S. Mayer	: DECISION ON REQUEST FOR
Patent Number	: 7655269	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/423,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 1100
WASHINGTON DC 20001

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Glen R. Sincic et al. :
Application No. 10/423,862 : DECISION ON PETITION
Filed: April 28, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket Number: :
006307.00002 :
Title: MULTI-TUBE SKYLIGHT

This is a decision on the petition filed December 30, 2004, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 23, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 24, 2004. A notice of abandonment was mailed on December 16, 2004.

With the present petition, Petitioner has asserted that an amendment was submitted in response to this communication on September 23, 2004, along with a request for continued examination (RCE) and a three-month extension of time. On October 15, 2004, a notice of improper RCE was mailed, since the RCE was filed prior to the close of prosecution[1].

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and

1 See 37 C.F.R. §1.114(a).

circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision, so that the amendment received on September 23, 2004 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

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Paper No. 6

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg MD 20885-4026

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of	
Jovic and Mantey	
Application No. 10/423,868	DECISION ACCORDING STATUS
Filed: April 28, 2003	UNDER 37 CFR 1.47(a)
Attorney Docket No. em-21023	
For: REDUCER VALVE FOR PRESSURIZED GAS	

This is in response to the petition under 37 CFR 1.47(a), filed September 23, 2003. Petitioner obtained a one-month extension of time. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner has shown that Milan Jovic, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Dr. Ulrich Altner establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Milan jovic
Waldkamp 8
21039 Börnsen
Federal Republic of Germany
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OFFICE OF PETITIONS

In re Application of :
Jovic and Mantey :
Application No. 10/423,868 :
Filed: April 28, 2003 :
Attorney Docket No. em-21023 :
For: REDUCER VALVE FOR PRESSURIZED GAS :

LETTER

Dear Mr. Jovic:

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).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg MD 20885-4026

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOCKE LIDDELL & SAPP LLP
ATTN: DOCKETING DEPT.
2200 ROSS AVENUE
SUITE 2200
DALLAS, TX 75201-6776

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of Wyszynski :
Application No. 10/423,913 : Decision on Petition
Filing Date: April 28, 2003 :
Attorney Docket No. 596914 85048 :

This is a decision on the petition under 37 CFR 1.181, filed May 23, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to timely respond to the Office action of October 18, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 18, 2007.

Petitioner has established non-receipt of the October 18, 2006 Office action. Therefore, the application is not abandoned.

A new Office action will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2622 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 25, 2006

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/423938 patent No.:7,050,144

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: There is a typographical error in the C of C, for Col. 12 lines 21 and 25. They should read as follows:
Line 21, "claim 6" should read --claim 5--
Line 25 "claim 6," should read --Claim 5,--

MARK F. HUFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1756
Art Unit

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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OCT 2 8 2005

OFFICE OF PETITIONS

In re Patent No. 6,855,449
Issue Date: February 15, 2005
Application No. 10/423,941
Filed: April 28, 2003
Attorney Docket No: 03068

ON PETITION

This is a decision on the petition, filed August 12, 2005, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED**.

It is U.S. Patent and Trademark Office practice to assure mailing of all papers such as the Letters Patent in this application, on the date indicated and duly addressed and timely delivered to the addressee.

Petitioners argue that the original letters patent were mailed to an incorrect address and that as a result, was not received by the addressee. A review of the file reveals that the patent grant was mailed February 15, 2005 to the address of record. There does not appear to have been a revocation and power of attorney or a change of address filed in this application prior to the mailing of the patent grant and as such, the original letters patent was returned to the USPTO[1].

In view of the above and since the failure to receive the letters patent by the party entitled to receive same was not by failure of the USPTO, the petition for a duplicate Letters Patent would require that a petition fee be submitted for processing the request. Although petitioner authorized a charge to a credit card for the petition fee, only $130.00 was authorized. Effective November 22, 2004, the petition fee for petitions filed pursuant to 1.182 was increased from $130.00 to $400.00. 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.

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[1]The filing of a change of correspondence address on August 11, 2005 is acknowledged.

Therefore, and since no authorizations for debiting a deposit account for any deficiencies have been granted, the petition fee has not been paid and the petition for duplicate letters patent cannot be granted.

Until such time as the balance due for petition fee ($270.00) has been paid, the Office will not be able to forward the original letters patent to petitioner.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Patent No. 6,855,449
Issue Date: February 15, 2005
Application No. 10/423,941
Filed: April 28, 2003
Attorney Docket No. 03068

ON PETITION

This is a decision on the renewed petition, filed November 1, 2005, 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 April 28, 2003, but fail to disclose receipt of the Letters Patent mailed on that date, or copies of records on which receipt of the Letters Patent would have been entered had it been received would be 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.

A petition filed August 12, 2005 was dismissed in a decision mailed October 28, 2005. Petitioners stated that the Letters Patent was not received from the USPTO because the wrong address was used but petitioners did not present persuasive evidence to support the argument that the USPTO erred in mailing the Letters Patent and as such has submitted the request for reconsideration and the required petition fee.

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

The Publishing Division 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 Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor (Fax – (703) 746-4642)

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

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Takuya Kawamura :
Application No. 10/423,953 : DECISION GRANTING PETITION
Filed: April 28, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03500.017237 :

This is a decision on the petition, filed September 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

STAAS & HALSEY, LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Koji Yoshida
Application No. 10/423,956
Filed: April 28, 2003
Attorney Docket No. 1539.1009D

ON PETITION

This is a decision on the papers styled "Petition To The Commissioner" filed on July 24, 2003, requesting that the above-identified application be accorded a filing date of April 28, 2003, including the specification.

The application was filed on April 28, 2003. However, on June 23, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the specification appears to be missing.

In response, on July 24, 2003, the instant petition and a copy of the application as claimed to be filed by petitioner were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 55 pages of specification, claims and abstract. A review of the application file indicates the presence of 0 pages of specification, claims and abstract. It is assumed that 55 pages of specification, claims and abstract were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee paid for the papers filed on July 24, 2003, will be refunded to deposit account no. 19-3935.

This application will be returned to OIPE for further processing with a filing date of April 28, 2003, using the copy of the specification, claims and abstract, supplied on July 24, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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JOSEPH R. KEATING
KEATING & BENNETT
SUITE 312
10400 EATON PLACE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of :
Mitsuhide Kato :
Application No. 10/423,967 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 36856.1067 :

This is a decision on the petition, filed January 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 January 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114.

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

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

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FLEHR, HOHBACH, TEST, ALBRITTON & HERBERT
SUITE 3400, FOUR EMBARCADERO CENTER
SAN FRANCISCO, CALIFORNIA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Dzau et al.	:	DECISION ON PETITION
Application No. 10/424,011	:	TO WITHDRAW
Filed: April 25, 2003	:	FROM RECORD
Attorney Docket No. 39753-0021C4	:	

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 4, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Ginger R. Dreger does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

A review of USPTO records reveals that the Power of Attorney included in the Declaration filed April 25, 2003 was not properly recorded. Further, it appears the Transmittal of New Application submitted April 25, 2003 was improperly recorded as the Power of Attorney and Correspondence Address. Additionally, a change of address was improperly processed on September 30, 2008. In view of these facts the Power of Attorney must revert to the original Power of Attorney filed April 25, 2003.

All future communications from the Office will continue to be directed solely to the address of record until proper instructions have been received. While, a courtesy copy of this decision is being mailed to the address given on the petition; the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed May 21, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ginger R. Dreger
135 Commonwealth Drive
Menlo Park, CA 94025

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Michelin North America, Inc.
Intellectual Property Department
P.O. Box 2026
Greenville SC 29602-2026

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
RAVAT :
Application No. 10/424,020 :
Filed: April 25, 2003 :
Attorney Docket No. P10-1255 :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 7, 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 March 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 an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of December 7, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1733 for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

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WALTER RICHARD BUERGER, JR.
20769 MESARICA RD
COVINA CA 91724

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of
Walter Richard Buerger et al. :
Application No. 10/424,022 : ON PETITION
Filed: April 25, 2003 :
Title of Invention: VERTICALLY WIRED INTEGRATED CIRCUIT AND METHOD OF FABRICATION :

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 9, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 10, 2004. Accordingly, a Notice of Abandonment was mailed March 22, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

This application is being forwarded to Technology Center 2829 for appropriate action on the response filed May 29, 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)).

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MR. JANIS BIKSA
PATENT COUNSEL, INTELLECTUAL PROPERTIES
3576 UNOCAL PLACE
MEDTRONIC AVE
SANTA ROSA, CA 95403

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DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
A. Leland Albright :
Application No. 10/424,023 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. P1724US :

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gregory J. Hartwig appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Hartwig desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on May 17, 2007. In response, on August 16, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

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.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

1988). Since the $1,080 extension of time fee submitted with the petition on August 16, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3738 for consideration of the response filed August 16, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY HARTWIG
MICHAEL BEST AND FRIEDRICH, LLP
100 E WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202-4108

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RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE LLP
7TH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND, OH 44114

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Risen et al.	:	
Application No. 10/424,033	:	DECISION GRANTING PETITION
Filed: April 25, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BRFZ 2 00007-3	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 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 concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1712 for appropriate action on the amendment filed December 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 nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/424,033	04/25/2003	1712	608	BRFZ 2 00007-3	8	12	7

CONFIRMATION NO. 1276
CORRECTED FILING RECEIPT
OC000000022048096

Richard M. Klein, Esq.
Fay, Sharpe, Fagan, Minnich & McKee LLP
7th Floor
1100 Superior Avenue
Cleveland, OH 44114

OC000000022048096

Date Mailed: 01/18/2007

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

Applicant(s)

William M. Risen JR., Rumford, RI;
Shuang Ji, Branford, CT;
Xiangjun Hu, Northboro, MA;
Ruiyun Zhang, York, PA;

Assignment For Published Patent Application

Brown University Research Foundation

Power of Attorney:

Robert Vickers--19504
Edward Daniels Jr--19598
Christopher Fagan--22987
Richard Minnich--24175
James McKee--26482
Thomas Kocovsky Jr--28383
Thomas Young--28924
Patrick Roche--29580
Jay Moldovanyi--29678
Philip Moy Jr--31280

Domestic Priority data as claimed by applicant

This application is a CON of 10/393,205 03/20/2003 PAT 7,147,701
which is a CON of 09/928,961 08/13/2001 PAT 6,602,336
which is a CON of 09/130,943 08/07/1998 PAT 6,303,046
which claims benefit of 60/085,469 05/14/1998
and claims benefit of 60/055,146 08/08/1997

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/424,033

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Non-metal aerogel materials and detectors, liquid and gas absorbing objects, and optical devices comprising same

Preliminary Class

516

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
1650 Market Street
Philadelphia, PA 19103

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Raymond P. STATA, et al.
Application No.: 10/424,073
Filed: April 25, 2003
For: SYSTEMS AND METHODS FOR RELATING EVENTS TO A DATE OR DATE RANGE SELECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 25, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: HICKMAN PALERMO TRUONG
& BECKER LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 19, 2004

Myers Bigel Sibley & Sajovec
4140 Parklake Ave., Suite 600
Raleigh, NC 27612

In re Application of:
Andrew M. Stuart, et al
Serial No.: 10/424,088 On Petition
Filing Date: April 25, 2002
For: METHODS AND DEVICES FOR TREATING NON-STUTTERING SPEECH-LANGUAGE DISORDERS USING DELAYED AUDITORY FEEDBACK

In response to the petition received by fax on January 12, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed June 18, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned August 19, 2003.

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

The application has been completed with the documents received on January 12, 2004 for release to Technology Center 3713.

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 OF PATENTS

January 19, 2004

Myers Bigel Sibley & Sajovec
4140 Parklake Ave., Suite 600
Raleigh, NC 27612

In re Application of:
Andrew M. Stuart, et al
Serial No.: 10/424,088 On Petition
Filing Date: April 25, 2002
For: METHODS AND DEVICES FOR TREATING NON-STUTTERING SPEECH-LANGUAGE DISORDERS USING DELAYED AUDITORY FEEDBACK

In response to the petition received by fax on January 12, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed June 18, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned August 19, 2003.

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

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

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

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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APR 26 2006

OFFICE OF PETITIONS

Applicant: Stuart et al.
Appl. No.: 10/424,088
Filing Date: April 25, 2003
Title: METHODS AND DEVICES FOR TREATING NON-STUTTERING SPEECH-LANGUAGE DISORDERS USING DELAYED AUDITORY FEEDBACK
Attorney Docket No.: 5218-100
Pub. No.: US 2005/0095564 A1
Pub. Date: May 5, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 1, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, as "Model 12L-LC" is misprinted as "Model 1 2L-LC", paragraphs [0115] and [0116] several commas were improperly printed as periods and paragraph [0115] "ϕ+=0.20" is misprinted as "ϕ+=0.20."

The request is granted.

At least one of the errors may have been due to the quality of the text in the application. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

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Paper No. 6

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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NOV 0 7 2003

OFFICE OF PETITIONS

In re Application of :
LOVANCE AND MACGINITIE :
Application No. 10/424,134 : DECISION ACCORDING STATUS
Filed: April 28, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 02158.0169. :
NPUS01 :
For: SYSTEMS AND METHODS FOR :
EVALUATING SPEAKER SUITABILITY FOR :
AUTOMATIC SPEECH RECOGNITION AIDED :
TRANSCRIPTION :

This is in response to the petition under 37 CFR 1.47(a), filed August 19, 2003.

The petition is granted.

Petitioner has shown that Andrew MacGinitie, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Anthony L. Meola establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Andrew MacGinitie
98 Mallory Road
Roxbury, CT 06783

In re Application of :
LOVANCE AND MACGINITIE :
Application No. 10/424,134 : LETTER
Filed: April 28, 2003 :
Attorney Docket No. 02158.0169. :
NPUS01 :
For: SYSTEMS AND METHODS FOR :
EVALUATING SPEAKER SUITABILITY FOR :
AUTOMATIC SPEECH RECOGNITION AIDED :
TRANSCRIPTION :

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NOV 07 2003

OFFICE OF PETITIONS

Dear Mr. MacGinitie:

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).

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

HOWREY SIMON ARNOLD & WHITE LLP
BOX 34
1299 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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Robert E. Bushnell
Suite 300
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Washington DC 20005-1202

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OCT 17 2006

OFFICE OF PETITIONS

In re Patent No.: 7,061,177 :
Issue Date. June 13, 2006 :
Application No. 10/424,135 : DECISION ON PETITION
Filed: April 28, 2003 :
Inventor: Kang et al. :

This is a decision on the petition originally filed April 17, 2006, and refiled by facsimile transmission August 23, 2006, which is being treated as a petition under 37 CFR 1.181 requesting review of the adverse decision of February 16, 2006, which refused to refund the fees for the 3 month extension of time and Notice of Appeal, both filed January 16, 2006.

The petition is denied

Petitioners again request a refund of the aforementioned fees on the grounds that these fees were paid by mistake. Petitioners note that the amendment after the final rejection of July 13, 2005, was filed in the third month on October 13, 2005, and while MPEP 714.13 indicates that the examiner should have indicated his treatment thereof within 10 calendar days, the examiner's Notice of Allowance was not mailed until January 27, 2006. As the examiner's delay, according to petitioners, caused the applicant to pay the contested fees by mistake, these fees should be refunded.

As explained in MPEP 607.02:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See Ex parte Grady, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment).
>
> When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).
>
> 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee.

Unfortunately for petitioners, the extension of time and Notice of Appeal fees paid herein were owed at the time they were paid, and, as such, were not fees paid by mistake. That is, these fees which petitioners

wish to have refunded were required by 35 U.S.C. § 41 which employs the language of command in that "the Director shall charge the following fees." The payment of the statutory fees is obligatory upon applicants and collection of the statutory fee is likewise obligatory upon the Office. Boyden v. Commissioner of Patents, 441 F.2d 1041, 1043, 168 USPQ 680, 681 (D.C. Cir.), cert denied 404 US 842, 868, 171 USPQ 312 (1971); see also Giuliani v. United States, 8 USPQ2d 1095 (D. Hi 1988), aff'd mem., 878 F.2d 1444 (Fed. Cir. 1989). The USPTO had no discretion to proceed with the processing of the amendment after final Office action in the absence of such payment. Boyden, supra. Petitioners obtained the results for which they admittedly paid the fees: the pendency of this application was maintained. To now request a refund of those rightfully paid fees is a change in purpose after the fact, which precludes a refund. See 37 CFR 1.26(a); Grady, supra.

The patent statute and the rules of practice before the USPTO do not permit an applicant to request and pay for a conditional extension of time fee, or a conditional Notice of Appeal fee, and depending on subsequent events, obtain a refund of the fee(s). See Meissner v. U.S., 108 USPQ 6 (D.C. Cir. 1955)(appeal fee paid on same day that examiner allows the application is not a fee paid by mistake within the meaning of 35 U.S.C. § 42(d) warranting a refund). Rather, entry of an amendment after a final Office action is discretionary on the part of the examiner, and petitioner assumed the risk that the amendment would not be entered, or even if entered, would not prima facie place the application in condition for allowance. See 37 CFR 1.116(c) ("[t]he admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135..."); see also 37 CFR 1.135(b)("[t]he admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.") In other words, as petitioners were under the obligation to maintain the pendency of this application while awaiting the treatment of the amendment proffered under 37 CFR 1.116, the fees were properly submitted by petitioners and accepted by the USPTO. Indeed, had the contested fees not been paid, this application would have become abandoned for failure to prosecute as indicated in MPEP 711.03(c), subsection II(C)(2):

> For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action

Clearly, the Notice of Appeal and its fee, was the proper reply, and such was rendered timely by the accompanying 3 month extension of time and fee. This does not warrant either a finding of mistake relating to the payment, or a refund of the fees. See In re Hartman, 145 USPQ 402 (Comm'r Pat. 1965). The belated treatment of the amendment submitted under 37 CFR 1.116 did not have the retroactive effect of converting the fee payments, proper when made, into payments made by mistake. Meissner, supra; see also Opinion of the Comptroller General of the United States, 113 USPQ 28, 29 (Comp. Gen. 1957). Moreover, petitioners could have avoided the extension of time fees if they had replied within 2 months of the final Office action as explained in MPEP 714.13 which indicates the period for reply to a final Office action for purposes of determining the amount of any extension fee is the date on which the

Office mails the advisory action advising applicant of the status of the application. Since no advisory action, or Notice of Allowance or Allowability, was mailed within 6 months of the final Office action, petitioner would have obtained the full statutory six months without payment of the extension of time fee, and would have then owed only the fee for the Notice of Appeal. See MPEP 714.13, subsection I. Since petitioners did not reply within 2 months of the final Office action and thus avail themselves of this favorable provision of the practices and procedures before the USPTO and instead waited 3 months to reply, they are not in a strong position to seek a refund of the extensions of time fees that their course of action–or inaction-- incurred.

For the reasons given above, the requested refund will not be forthcoming, as petitioners have not shown, and the record does not show, that the fees were paid either in error or in excess. It follows that no refund is due. Accordingly, the petition is granted to the extent the communication of February 16, 2006, has been reviewed, but is **denied** as to making any changes therein.

The request for refund of the extension of time and Notice of Appeal fees is **denied**.

This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02. The USPTO will not further consider or reconsider this matter.

Any inquiries concerning this decision may be directed to Petitions Examiner Brian Hearn at (571) 272-3217.

Charles Pearson
Director, Office of Petitions

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JJGJr: 06-05

Paper No: __

KELLEY DRYE
& WARREN LLP
101 PARK AVENUE
NEW YORK NY 10178

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
He, et al. :
Application No. 10/424,140 : DECISION ON PETITION
Filed: 28 April, 2003 :
Attorney Docket No.: 02158.0170.NPUS01 :

This is a decision on the petition filed on 8 January, 2004 under 37 C.F.R. §1.47(a), but properly considered under 37 C.F.R. §1.47(b) because no inventors have signed the oath/declaration.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

NOTES:

(1) 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 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(b)."

(2) There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 28 April, 2003, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts (basic fees, oath/declaration, surcharge) on 19 June, 2003, however, the Notice was returned undelivered, and was re-mailed on 8 October, 2003 (a courtesy copy was re-mailed on 23 October, 2003), with reply due absent extension of time on or before 8 December, 2003;

- Petitioner replied on 8 January, 2004, with (*inter alia*) a request and fee for a one- (1-) month extension of time and the instant petition;

- Petitioners Anthony Meola (Reg. No. 44,936) and Michael J. Stimson (Reg. No. 45,429) have filed:

  –a statement in their petition alleging an interest in the claimed invention and a change in assignee, however no documents are submitted in support of these allegations; and

  –a declaration by Ms. Melinda H. Smith, Esq., Secretary/Chief Counsel of the alleged assignee, alleging transmittal of a copy of the entire application (description, claims, abstract and drawings) to the inventors Chuang He (Mr. He) and Jianxiong Wu (Mr. Wu), however, no copy of the transmittal documents are in evidence.

Thus, as of this writing it appears that there is insufficient support of the necessary showings as required.

ANALYSIS

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, 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, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

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 C.F.R. §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 C.F.R. §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 C.F.R. §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 failed to satisfy this burden with, for example, a copy of the transmittal letter forwarding to the non-signing inventors a copy of the entire application (description, claims, abstract, drawings) at the non-signing inventor's last known address–which address must demonstrate he has made a diligent effort to determine as current.

As of this writing, Petitioner has failed to satisfy the showing requirement of the regulation and the petition hereby is **dismissed**.

The renewed petition, if any, must be accompanied by the corroborating evidence required by 37 C.F.R. §1.47.

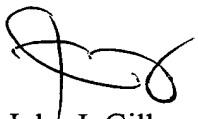
Further correspondence with respect to this matter should be addressed as follows:

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

By FAX: IFW Formal Filings
(703) 872-9306
ATTN.: Office of Petitions

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

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 09-05

Paper No: __

KELLEY DRYE
& WARREN LLP
101 PARK AVENUE
NEW YORK NY 10178

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of	:	
He, et al.	:	
Application No. 10/424,140	:	DECISION ON PETITION
Filed: 28 April, 2003	:	
Attorney Docket No.: 02158.0170.NPUS01	:	

This is a decision on the (renewed) petition filed on 19 August, 2005 (originally) under 37 C.F.R. §1.47(a), but properly considered under 37 C.F.R. §1.47(b) because no inventors have signed the oath/declaration.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received and given a filing date of 28 April, 2003, without, *inter alia*, a fully executed oath/declaration;

- the Office mailed a Notice of Missing Parts (basic fees, oath/declaration, surcharge) on 19 June, 2003, however, the Notice was returned undelivered, and was re-mailed on 8 October, 2003 (a courtesy copy was re-mailed on 23 October, 2003), with reply due absent extension of time on or before 8 December, 2003;

- Petitioner replied with the original petition on 8 January, 2004, with (*inter alia*) a request and fee for a one- (1-) month extension of time, and Petitioners Anthony Meola (Reg. No.

44,936) and Michael J. Stimson (Reg. No. 45,429) filed: a statement in their petition alleging an interest in the claimed invention and a change in assignee, however no documents are submitted in support of these allegations; and a declaration by Ms. Melinda H. Smith, Esq., Secretary/Chief Counsel of the alleged assignee, alleging transmittal of a copy of the entire application (description, claims, abstract and drawings) to the inventors Chuang He (Mr. He) and Jianxiong Wu (Mr. Wu), however, no copy of the transmittal documents are in evidence, and the petition was dismissed on 16 June, 2005;

- the instant filing corrects the former deficiencies; and

- further, in a telephone conversation with the Office on 9 September, 2005, Petitioner Glen J. Gesicki (Reg. No. 55,843) confirmed that Chuang He (Mr. He) and Jianxiong Wu (Mr. Wu) are referred to in the Email exchanges submitted as "Mike He" and "Jim Wu," respectively.

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

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

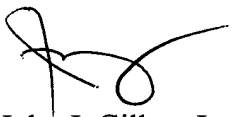
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

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

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

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 09-05

Paper No: __

CHUANG HE
3 KIMBALL COURT/APT. 107
WOBURN, MA 01801

CHUANG HE
111 LOCUST ST.
WOBURN, MA 01801

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SEP 1 2 2005

OFFICE OF PETITIONS

In re Application of :
He, et al. :
Application No. 10/424,140 : COMMUNICATION
Filed: 28 April, 2003 :
Attorney Docket No.: 02158.0170.NPUS01 :

Dear Chuang He:

You are named as 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,[1] Rules of Practice

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[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
KELLEY DRYE
& WARREN LLP
101 PARK AVENUE
NEW YORK NY 10178

UNITED STATES 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 : 10/24/07

Patent No. : 7236931 B2
Ser. No. : 10/424,140
Inventor(s) : MOTT, PHILIP J.
Issued : 06/26/07
Title : **SYSTEMS AND METHODS FOR AUTOMATIC ACOUSTIC SPEAKER ADAPTATION IN COMPUTER-ASSISTED TRANSCRIPTION SYSTEMS**

Docket No. : NU-164(US)

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 again.

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

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

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

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

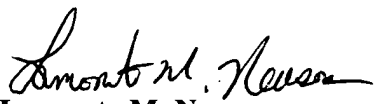
By mail: Mail Stop PETITIONS

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

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

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

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



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

KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET, 13TH FLOOR
STAMFORD CT 06901

LMN

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 22 2008

KELLEY DRYE & WARREN LLP
400 ATLANTIC STREET, 13TH FLOOR
STAMFORD CT 06901

In re Patent No. 7,236,931	:	
Issue Date: June 26, 2007	:	
Application No. 10/424,140	:	ON PETITION
Filed: April 28, 2003	:	
Attorney Docket No. NU-164(US)	:	

This is a decision on the paper filed November 13, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "DICTAPHONE CORPORATION."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment to "DICTAPHONE CORPORATION and SCANSOFT, INC." was recorded on April 14, 2005. Accordingly, issuance of a certificate of correction would not be proper for just DICTAPHONE CORPORATION when SCANSOFT, INC., is also listed as an assignee.

Further, the petition should not be included on the Form PTO/SB/44. Applicant is encouraged to note 37 CFR 1.4(c).

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Tomohiko Kitajima et al	:	
Application No. 10/424,152	:	DECISION GRANTING PETITION
Filed: April 25, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 007484/CMP	:	

This is a decision on the petition, filed July 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 05 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Mr. Carl Raymond Amos
1670 Bayfield Way
Reston, VA 20194

In re application of : **DECISION ON PETITION**
Carl Raymond Amos : **TO MAKE SPECIAL**
Application No. 10/424,155 : **(INFRINGEMENT)**
Filed: April 28, 2003 :
For: ADVANCED AUTOMATIC INSTANT MONEY TRANSFER MACHINE

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 12, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 12, 2004 lacks requirements (1), 2(A), and 2(B) above. Regarding requirement (1), petitioner has not submitted the petition fee required under 37 CFR 1.17(h) of $130.00. Regarding requirement 2(A), it is not clear from petitioner's statement if he is stating that "there is an infringing device or product actually on the market or method in use". Regarding requirement 2(B), petitioner has not included the statement that "a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed".

In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

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

RAR/rwg: 10/25/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 1, 2006

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/424207 patent No.: 7,005,160

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1792

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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LENOVO (US) IP LAW
MAIL STOP ZHHA/B675/PO BOX 12195
3039 CORNWALLIS ROAD
RTP, NC 27709-2195

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Takayuki Katoh, et al. :
Application No. 10/424,226 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. P920020077US1 :

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

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2005. A Notice of Abandonment was mailed on September 18, 2006. In response, on November 29, 2006, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of William Hogg appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Hogg desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2115 for consideration of the amendment filed November 29, 2006.

[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.

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

cc: WILLIAM HOGG
DRIGGS HOGG & FRY CO., L.P.A.
38500 CHARDON ROAD
WILLOUGHBY HILLS, OH 44094

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Quad/Graphics
C/O Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Patent of Patrick J. Noffke et al.	:	DECISION ON REQUEST
Patent No. 7,627,141	:	FOR RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/424,230	:	AND NOTICE OF INTENT TO
Filing Date: April 25, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 067925-9748(584.042)	:	CORRECTION

This is a decision on the petition filed January 29, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand two hundred ninety-three (1293) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand two hundred ninety-three (1293) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), the over three year period began on April 26, 2006, and ended on April 13, 2008, *the day before* the RCE was filed, and is 719, not 720 days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 1292 days, not 1293 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). The petition includes a request for a refund of the fee. However, the fee is required by regulation and will not be waived or refunded. 35 U.S.C. § 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's

initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under 37 C.F.R. § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand two hundred ninety-two (1292)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,627,141 B2
APPLICATION NO.	:	10/424,230
DATED	:	December 1, 2009
INVENTOR(S)	:	Patrick J. Noffke 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 Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 733 days.

Delete the phrase "by 733 days" and insert -- by 1292 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

Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of
Leonard, et al.
Application No. 10/424,243
Filed: April 28, 2003
Attorney Docket No. 8789-24DV

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10, filed July 28, 2003, requesting that the above-identified application be accorded a filing date of April 28, 2003, rather than the presently accorded filing date of April 29, 2003.

Petitioners allege that the application was deposited in Express Mail service on April 28, 2003. However, the "date-in" on petitioners' Express Mail customer receipt is blank.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis added).

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Here, petitioners have met the requirements of 37 CFR 1.10(d). The petition was filed promptly. In addition, the number of the Express Mail mailing label (EV 353591872 US) was placed on the application papers. Lastly, while the Express Mail label does not bear a date-in date, the fact that the label bears a USPS date stamp of April 28, 2003 serves as "corroborating evidence" that the above-identified application was deposited with the USPS on April 28, 2003.

In view of the above, the application is entitled to a filing date of April 28, 2003. The petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **April 28, 2003, not April 29, 2003.**

Telephone inquires specific to this decision may be directed to the undersigned at (703)305-0272.

Cliff by

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

MS. CATHERINE. C. MARESH
SENIOR PATENT COUNSEL
3576 UNOCAL PLACE
MEDTRONIC VASCULAR, INC.
SANTA ROSA CA 95403

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
John Kantor :
Application No. 10/424,247 : ON PETITION
Filed: April 28, 2003 :
Title: Method and System for Improving Stent Retention Using Stent Openings :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 11, 2006.

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

This application was held abandoned March 9, 2005 for failure to timely reply to the Notice of Fee Deficiency mailed on April 8, 2005. The Notice of Fee Deficiency set a one (1) month extendable time period for reply. A Notice of Abandonment was mailed July 13, 2006.

Petitioner asserts that a reply to the Notice of Fee Deficiency was timely submitted on April 21, 2005. As evidence, petitioner has submitted a copy of the reply and a stamped postcard receipt. The post card receipt serves as prima facie evidence that a reply to the Office Action was received in the Office. Further review of the record shows that the response in the form of authorization to charge deposit account 01-2525 was received by the Office on April 21, 2005 and is part of the official record..

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to Art Unit 3738 for further processing of the amendment.

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
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KEATY PROFESSIONAL LAW CORPORATION
THOMAS S. KEATY
2 CANAL STREET
2140 WORLD TRADE CENTER
NEW ORLEANS, LA 70130

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark A. Allen	:	
Application No. 10/424,256	:	ON PETITION
Filed: April 25, 2003	:	
Attorney Docket No. A03-0168	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 19, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 20, 2007.

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

This matter is being referred to Technology Center AU 3635 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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AUG - 1 2005

Leo H. McCormick Jr.
2112 Mishawaka Avenue
P.O. Box 4721
South Bend IN 46634

In re Application of
Leonardo Cadeddu
Application No. 10/424,294
Filed: April 28,2003
For: HYDRAULIC BRAKING DEVICE WITH IMPROVED BRAKE SENSITIVITY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition under 37 CFR 1.17 to accept an amendment that was filed within the prescribed time for response filed in the United States Patent and Trademark Office (USPTO), on March 29, 2005. This petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee associated with this petition.

The petition is **GRANTED.**

A Notice of Non-Compliant Amendment was mailed August 06, 2004, setting a one-month time period for applicant to submit a corrected amendment. A Notice of Abandonment was mailed on March 23, 2005 asserting that no reply had been received in response to the Notice of Non-Compliant Amendment mailed August 06, 2004.

The petition attempts to rely upon a copy of telephone charges to indicate that an amendment was filed by fax to the USPTO on August 09, 2004. The copy of the telephone charges is not acceptable evidence of response. However, the copy provided of the alleged August 09, 2004 amendment includes a Certificate of Mailing/Transmission signed on August 9,2004 which is supported by a statement under 37 C.F.R. 1.8(b)(3) within the petition. The Certificate of Mailing/Transmission signed on August 9,2004, supported by the statement under 37 C.F.R. 1.8(b)(3) within the petition are sufficient evidence that a reply to the Notice of Non-Compliant Amendment mailed August 06, 2004, was faxed on August 09, 2004. The petition is granted.

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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/rjc: 07/20/05

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Paper No. 5

PATENT COUNSEL
APPLIED MATERIALS, INC.
3050 BOWERS AVENUE
PO BOX 450-A
SANTA CLARA, CA 95052

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NOV 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Jevtic et al. :
Application No. 10/424,330 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 5348 D1 US/FET/FET :

This decision concerns the "Petition under 37 CFR 1.182 in Response to Notice of Omitted Item(s) in a Nonprovisional Application Mailed on July 10, 2003" filed on August 25, 2003, in effect requesting that an omitted drawing be accorded the same filing date as the application. This petition is being properly treated as a petition under 37 CFR 1.53(e).

The petition is **DISMISSED**

On April 28, 2003, the application was filed. Although the application transmittal indicated submission of 11 sheets of drawings, only 10 sheets were received in the USPTO (Figures 1-11 and 13).

On July 10, 2003, a "Notice of Omitted Item(s) in a Nonprovisional Application" ("7/10/03 Notice") was mailed, stating that a Figure 12 described in the specification appeared to have been omitted from the application as filed. The instant petition then followed.

Petitioners do not dispute the 7/10/03 Notice, but argue that the entire content of the parent application, including the omitted Figure 12, was incorporated into the instant application.

Under MPEP 201.06(c) (Rev. 1, Feb. 2003), " . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are 'hereby incorporated herein by reference.' The statement may appear in the specification or in the application transmittal letter . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation . . . application to include any subject matter in such prior application(s), without the need for a petition provided the continuation application is entitled to a filing date notwithstanding the incorporation by reference." (emphasis supplied)

According to the first sentence of the specification in the instant application, the application is a divisional of Application No. 09/893,037 (now patented), "which is incorporated herein by reference." Therefore, if Applicants desire that the omitted Figure 12 be added to the application, the appropriate procedure is by way of amendment requesting entry of this drawing. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

In view of the above, the petition is dismissed, in that, the omitted Figure 12 is not accorded the April 28, 2003 filing date.

The $130 petition fee will not be refunded, since the 7/10/03 Notice was correct in stating that Figure 12 appeared to have been omitted from the application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 28, 2003, and for indicating in the USPTO record that 10 sheets of drawings were present on filing.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: John A. Simpson	: DECISION ON REQUEST FOR
Patent Number	: 7655022	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/424,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NEW YORK NY 10020-1105

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JUN 22 2004

OFFICE OF PETITIONS

In re Application of :
Sidney E. Buttrill :
Application No. 10/424,351 : ON PETITION
Filed: April 24, 2003 :
Attorney Docket No. CIPHBIO-11 :

This is a decision on the petition, filed June 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2881 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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808 N CAUSEWAY BLVD
METAIRIE LA 70001

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Lux et al. : DECISION ON PETITION
Application No. 10/424,380 :
Filed: 28 April, 2003 :
Atty Docket No. 02-043200 :

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on 23 May, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 5 August, 2004, for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on 4 May, 2004, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The application has been restored to pending status.

The application file is being referred to the Publishing Division for processing into a patent.

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[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

D Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

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MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Eric O. Bodnar, et. al. :
Application No. 10/424,384 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. SF0021.06 D01 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 8, 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 9, 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
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R. KEITH HARRISON
2139 E. BERT KOUNS
SHREVEPORT, LA 71105

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
L. Gaye Carroll :
Application No. 10/424,394 :
Filed: April 28, 2003 :
Attorney Docket No. 1047A :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on July 22, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 28, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 1615 for examination in due course.

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

Attachment: Communication Regarding Rescission of Nonpublication Request

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OCT 1 2 2005

OFFICE OF PETITIONS

LAWRENCE R. YOUST
DANAMRAJ & YOUST, P.C.
5910 NORTH CENTRAL EXPRESSWAY
SUITE 1450
DALLAS TX 75206

In re Application of :
William Mark Richards et al :
Application No. 10/424,425 : ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 2001-IP-003343 :

This is a decision on the petition, filed October 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3672 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Hock Chuan Tan et al :
Application No. 10/424,426 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. MTI-31608-C :

This is a decision on the petition, filed July 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114.

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

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

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OFFICE OF PETITIONS

In re Application of :
Hock Chuan Tan et al :
Application No. 10/424,426 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. MTI-31608-C :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 22, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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WHYTE HIRSCHBOECK DUDEK S.C.
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MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Hock C. Tan, et al.	:	
Application No. 10/424,426	:	DECISION GRANTING PETITION
Filed: April 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTI-31608-C	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 5, 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 October 31, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2818 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 for

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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Mailed: 12/30/05

In re application of	:	
Norbert Assion	:	DECISION ON
Serial No. 10/424,448	:	PETITION
Filed: April 28, 2003	:	
For: HYBRID SPIN-ON FILTER		

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed May 27, 2005.

On October 7, 2004, a non-final office action was mailed containing a four way species restriction. The examiner stated that the species were based on 4 separate figures disclosed by Applicant. The examiner also stated that claims 1, 9, 16 and 21 are generic and listed which claims were directed to each specie(s). Applicant responded on November 3, 2004 and elected Species 3 (Figure 13 in the restriction requirement). Applicant stated in the response that claims 1-5 and 8-30 read on the elected species. In an office action mailed January 13, 2005, the examiner set forth that claims 9-15 were withdrawn from consideration as being directed to a non-elected species. The examiner repeated the requirement in an office action mailed on May 27, 2005 and made the requirement final.

On July 29, 2005 the instant petition under 37 CFR 1.181 was timely filed to formally request that the examiner withdraw the restriction requirement.

DECISION

Section 806.04 of the MPEP states in part:

806.04 [R-3] Genus and/or Species< Inventions
Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct. However, 37 CFR 1.141 provides that an allowable generic claim may link a reasonable number of species embraced thereby. The practice is set forth in 37 CFR 1.146.

Additionally, Section 803 of the MPEP states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, the examiner identifies 4 patentably distinct species in the original restriction requirement. It is noted however, that in the original requirement, the examiner groups the claims in such a way that the claims are directed to only three of the species. It is also pointed out that in the original requirement and explanation, the examiner has presented a listing of claims were every claim appears to correspond to species 3 (see office action, page 2). The examiner did not point out any reasons why the different species were held to be patentably distinct. Applicant elected Species 3 which according to the examiner in the original requirement, would include all of the claims. For some unknown reason, the examiner changed the groupings of the claims after the election and informed the applicant that claims 9-15 were no longer included in the elected species. While the examiner mentions that Figure 13 includes a second filter element having a filtered liquid exit formed by the bottom side as opposed to a top side of the filter element, this explanation is confusing in that in the original restriction groupings, claims 9-15 were all said to correspond to Figure 13. The examiner never explains what the new groupings of claims are and how these groupings are patentably distinct from each other.

Additionally, the examiner has not established that any serious burden exists to examine all of the claims as required by MPEP Section 803 such as by providing evidence of different classification of the species.

Accordingly, the restriction requirement is improper and should be withdrawn. The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and prepare a new office action examining including an examination of claims 9-15 on the merits.

Jacqueline M. Stone

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

HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON CT 06484-6212

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SMITH MOORE LLP
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DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of
Gerd Jonas et al
Application No. 10/424,459
Filed: April 25, 2003
Attorney Docket No. 5003073-041US1

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: 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 July 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed International Application No. PCT/EP01/12315, filed October 25, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed German Application No. 100 52 966.6, filed October 25, 2000

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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). A reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). Further, the surcharge fee required by 37 CFR 1.17(t) has been received . Lastly, an adequate statement of

unintentional delay has been submitted. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified nonprovisional application was filed on April 25, 2003, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of October 25, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on July 3, 2003 also identifies the foreign application by application number, country and filing date, for which priority is claimed. Further, the $1,330 surcharge fee required by 37 CFR 1.17(t) has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)- (d) is granted.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120, 365(c) and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This matter is being referred to Technology Center Art Unit 1762 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed and PCT application and for consideration of the claim for priority under 35 U.S.C. § 119(a)-(d) for the benefit of the above-noted foreign application.

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

ATTACHMENT: Corrected Filing Receipt

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PO Box 726
Hampden, Maine 04444-0726

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OFFICE OF PETITIONS

In re Application of :
Kassai et al. :
Application No. 10/424,468 : DECISION DISMISSING REQUEST
Filed: April 28, 2003 :
Attorney Docket No. 4516 :

This decision is in response to Applicants' "REQUEST FOR REVIEW OF PTA" filed on JUNE 28, 2005 requesting that the Office review the PTA determination to determine if USPTO granted too much time. The Office will treat this submission as a good faith and candor letter.

Applicants' REQUEST is **DISMISSED.**

Applicants assert that the eighty-six day determination may be in error because the Office may have failed to take into account the submission of the supplemental Declaration on May 5, 2003.

Applicants argument is not persuasive. The Office did assess a twenty-seven day delay for the submission on May 5, 2003 that was responded to by the Office on May 31, 2003. Accordingly, the twenty-seven days assessment was accurate under 37 CFR 1.704(c)(10). In addition, it is noted that the Office failed to meet the requirements of 37 CFR 1.702(a)(1) by a period of one hundred and thirteen days. Accordingly, the correct determination at the time of the issuance of the patent is eighty-six (113-27=86) days as stated in the issue notification letter as well as printed on the front page of the patent.

After the mailing of this decision, the Office will forward the application to the file repository for storage of the file.

The Office thanks applicants for their good faith and candor in bringing an alleged discrepancy in the applicants' favor to the Office's attention. The Office will not assess a fee when applicant are advising the Office of an alleged error in applicants's favor.

Any questions concerning this decision should be directed to Kery A. Fries, at 571-272-7757.

/Kery A Fries/

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

cc :PAIR determination

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OFFICE OF PETITIONS

In re Application of :
Hock Chuan Tan et al :
Application No. 10/424,470 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. MTI-31608-B :

This is a decision on the petition, filed July 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114.

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

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

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Date : May 31, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hock Chuan Tan, et al.
Application No. : 10/424,470
Filed : April 28, 2003

The above-identified application has been assigned Patent No. 6,902,996 and an issue date of June 7, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the Director, Office of Petitions. No issue fee was paid on the Notice of Allowance.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 7, 2005:

"All reference to Patent No. 6,902,996 to HOCK CHUAN TAN, ET AL. of SINGAPORE for STACKED DIE IN DIE BGA PACKAGE appearing in the Official Gazette of June 7, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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OFFICE OF PETITIONS

In re Application of :
Hock Chuan Tan, et al. :
Application No. 10/424,470 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. MTI-31608-B :

This is a decision in response to a petition under 37 CFR 1.313 and 1.114, filed May 27, 2005, requesting that the above-identified application be withdrawn from issue. The petition is filed in response to an Issue Notification indicating that the application will issue as U.S. Patent No. 6,902,996 on June 7, 2005.

The petition is dismissed as moot. Under the circumstances, no petition fee is required.

Petitioners argue that the Issue Notification was mailed in error since "[a]pplicant did *not* pay the issue fee, did not authorize the payment of the fee, and did *not* submit Fee Transmittal (PTOL-85)". In fact, petitioner explains that a Request for Continued Examination was filed on April 14, 2005 to reopen prosecution.

A review of the record failed to uncover the January 14, 2005 Fee Transmittal (PTOL)-85) or an authorization to charge the requisite issue fee. Receipt is acknowledged of the Request for Continued Examination (RCE) filed on April 14, 2005.

The Issue Notification was mailed in error, and is hereby withdrawn.

Since the RCE was filed within the period set for paying the issue fee, as required by the second Notice of Allowance and Issue Fee Due mailed January 14, 2005, prosecution is reopened in the present application and no petition under 37 CFR 1.313 is necessary.

The application is being referred to Technology Center AU 2818 for processing the RCE under 37 CFR 1.114 filed April 14, 2005.

Telephone inquiries should 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

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Paper No. 5

DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #E
NEWPORT BEACH, CA 92661

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OFFICE OF PETITIONS

In re Application of :
Donald W. Brown :
Application No. 10/424,496 : ON PETITION
Filed: April 27, 2003 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 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 non-final Office action mailed February 13, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 14, 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 3700, Art Unit 3738 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

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2600 ARAMARK TOWER
1101 MARKET STREET
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OFFICE OF PETITIONS

In re Application of
Noli Libuit
Application No. 10/424,499
Filed: April 25, 2003
Attorney Docket No. 25,756-A USA
For: PRINTED MATERIALS PROCUREMENT SYSTEM

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed October 16, 2003 (certificate of mailing date October 13, 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.**

The above-identified application was filed on April 25, 2003 without an executed oath or declaration. Accordingly, on June 27, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on October 16, 2003 (certificate of mailing date October 13, 2003), a petition for a one month extension of time, the surcharge, application filing fees, the petition fee, and the instant petition were filed.[1] The petition and accompanying exhibits explain that inventor Libuit did not respond to e-mails requesting his assistance in reviewing the application and executing 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;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;

[1] Petitioner should have purchased a two month extension of time. A one month extension of time only covers up to September 27, 2003. Pursuant to petitioner's authorization, deposit account no. 19-5425 will be charged the balance due for a two month extension of time, which is $155.

(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1) and (2) set forth above.

As to item (1), Applicant has failed to establish that the inventor refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Petitioner states that the inventor did not respond to e-mails that requested assurances of the inventor's cooperation before petitioner mailed the application papers. Petitioner states this constitutes a constructive refusal by Mr. Libuit to join in filing of the application.

The Office can not be sure that Mr. Libuit received these e-mail messages. In addition, it is not proper to refrain from proffering the application papers unless the inventor gives advance approval with respect to executing the declaration.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Assuming Mr. Libuit received the e-mails, he may not feel comfortable agreeing to sign the declaration without looking at the application because his signature on the declaration would obligate him, under penalty of "fine or imprisonment, or both" to particulars to which he can only attest after having had the opportunity to review the subject patent application. In addition, he may not feel comfortable agreeing to sign a declaration making the necessary statements-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

Mr. Libuit must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioner can show that Mr. Libuit was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

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 undersigned cannot locate a declaration in the application file. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Libuit is REQUIRED. See MPEP 409.03(b). The Office requires petitioner to submit a declaration with the signer's name and title thereon in addition to the information pertaining to the inventor. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The declaration must be signed by a properly empowered representative of the Rule 1.47 applicant.

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

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

By hand until 12/01/03:
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By hand post 12/01/03:	Crystal Plaza 1 Lobby 2011 South Clark Place Room 1B03 Arlington, VA 22202
By Fax until 12/01/03:	(703) 308-6916 ATTN: Office of Petitions
By FAX post 12/01/03:	(703) 872-9306 ATTN: Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

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PHILADELPHIA PA 19107

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OFFICE OF PETITIONS

In re Application of
Noli Libuit
Application No. 10/424,499
Filed: April 25, 2003
Attorney Docket No. 25,756-A USA
For: PRINTED MATERIALS PROCUREMENT SYSTEM

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

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed January 26, 2004 (certificate of mailing date January 21, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Noli Libuit, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition, exhibits, and the declaration by Attorney Robert R. Axenfeld establish that the inventor was successfully mailed the application papers on two separate occasions, but the inventor failed to respond to the requests that he sign the declaration. In addition, petitioner has shown that The Regal Press, Inc. has a proprietary interest in the above-identified application with an assignment document. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NOLI LIBUIT
26333 TAAFFE ROAD
LOS ALTOS HILLS, CA 94022

COPY MAILED

FEB 0 9 2004

OFFICE OF PETITIONS

In re Application of
Noli Libuit
Application No. 10/424,499
Filed: April 25, 2003
Attorney Docket No. 25,756-A USA
For: PRINTED MATERIALS PROCUREMENT SYSTEM

LETTER

Dear Mr. Libuit:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107

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Alexandria, VA 22313-1450
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7/18/05

td

Mailed:
In re application of : DECISION ON
Dough Slattery et al.. : PETITION
Serial No. 10/424,505 :
Filed: April 28, 2003 :
For: LEATHER TREATMENT

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION, mailed February 23, 2005.

On October 20, 2004, a non-final office action was mailed to applicants. The office action contained various rejections including a rejection under 35 USC 102(b)/103 over Topfl. This was the only art rejection present in the office action.

An interview was conducted on December 1, 2004 between the examiner and applicant's representative. During this interview, the examiner made several suggestions so as to how applicants could amend their claims.

A reply to the office action was filed on December 6, 2004. In the reply, applicants amended independent claim 1 in the manner discussed at the interview of December 1. The amendment overcame the 35 USC 102(b)/103 rejection.

On February 23, 2005 a final office action was mailed. The previous rejection was withdrawn and a new ground of rejection was added. The new prior art rejection was under 35 USC 103 over Golumbic The examiner stated in the office action that the new ground of rejection was necessitated by Applicant's amendments to the claims and the office action was made final. On May 9, 2005, the instant petition was filed.

Petitioner has argued that the finality of the last office action is improper. Petitioner argues that the amendment to the claims was suggested by the examiner and therefore should have been expected.

DECISION

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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

Section 706.07(b) of the MPEP states:

> A second or any subsequent action on the merits in any application...should not be made final if it includes a rejection, on prior art of record, of any claim amended to include limitations which should reasonably have been expected to be claimed

Petitioner urges that because the examiner suggested language that could be used to amend calim 1 during an interview after the office action had been mailed to applicant, such an amendment should have been expected by the examiner. It appears that Petitioner has misinterpreted the meaning of this section of the MPEP. This language is referring to whether or not an examiner would have reasonable expected such an amendment to have been made at the time the non-final office action was being prepared. As an example, the MPEP gives a situation where a 35 USC 112, second paragraph based on incompleteness is made, one could reasonably expect the missing elements to be supplied (See MPEP Section 706.07(a)). The fact that an examiner would have expected applicant to amend in a way that was discussed at an interview does not fall under the situation referred to in the aforementioned section of the MPEP. There is nothing in the record that the examiner indicated the claims would be allowable if such amendments were made, but rather it appears that the examiner provided suggestions as to how to overcome the outstanding rejection present in the non-final office action. Clearly, a new search would have to be conducted upon filing such an amendment and the examiner would have no way to determine in advance whether such a search would turn up applicable art that could be applied to the newly amended claim.

In addition, Section 713.04 of the MPEP which is also reproduced on the second page of the Interview Summary Form (PTOL-413) states:

> (J) an indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). *(Agreements as to allowability are tentative and do not restrict further action by the examiner to the contrary.)*; (emphasis added)

The non-final office action contained a proper rejection under 35 USC 102(b)/103 over Topfl. Applicants amended the independent claim to add the limitations suggested by the examiner that would overcome the rejection. When applicants amended the claim to overcome the prior art, a new search and further consideration were required as to the patentability of the newly presented claim. A newly discovered reference was then applied in the form of a 35 USC 103 rejection. The new rejection was required due to applicant's amendment to the claim. In the instant case, at the time the non-final office action was being prepared, the examiner had no way of knowing that applicants would choose to amend the claims in the manner they did so as to necessitate a new reference containing the newly presented limitations.

Accordingly, the finality of the February 23, 2005 office action was proper. The request to withdraw the finality is **DENIED.**

Petitioner also requests that the objection under MPEP 2129 regarding the Jepson claim format be withdrawn. The examiner states in the final office action that she cannot comprehend from the language of the claim and specification what Applicants claim to be prior art. A reading of the claims, specification and arguments set forth by Petitioner filed herewith, clearly shows what is regarded as prior art (i.e. all of the language prior to "the improvement comprising"). Accordingly, the request to withdraw the objection is **GRANTED**. Note that this petition decision does not address the propriety of the 35 USC 112 rejections made in the final office action.

Lastly, it is noted that Petitioner has filed a Status Inquiry regarding the instant petition on June 20, 2005. Petitioner requests that the basis for ruling that the after final amendment contained new matter and/or new issues be reviewed. Petitioner has not formally filed a petition requesting such a review and has included no supporting facts and/or argument as to the propriety of the examiner's actions in the June 13, 2005 Advisory Action. Accordingly, this issue is not ripe for decision. It is also noted that Petitioner also believes that the examiner is in error for stating that the period for response expires 3 months from the mailing date of the final rejection. Petitioner argues that "[t]he period for reply should begin on June 13, 2005, the mailing date of the Advisory Action because the Applicant's first reply to the final rejection was filed April 13, 2005, which is within two (2) months of the February 23, 2005 mailing date of the Final Rejection." Because Applicants did file the after final amendment within two months of the final rejection, the examiner should have checked box 1 b) as opposed to 1 a). However, this does not restart the time period for response as alleged by Petitioner. The advisory action merely states that when a response is received within two months from the mailing date of the final rejection, the period for reply *expires* on the mailing date of the advisory action or the date set forth in the final rejection (emphasis added). In this case, the mailing date of the advisory action was June 13, 2005 which is after the period set forth in the final action which was May 23, 2005. Therefore, the initial three month period for response *expired* on June 13, 2005. Extensions of time may be obtained and said extensions will be based on the June 13, 2005 mailing date of the advisory action. Petitioner should be aware however, that in no event, will the statutory period for reply expire later than 6 months from the mailing date of the final rejection. Extensions of time can only be bought to extend the time for response up to this 6 month date. This application will become abandoned after August 23, 2005 unless appropriate action is taken by Applicants to keep the application in pending status.

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

HAVERSTOCK, GARRETT & ROBERTS LLP
Suite 1610
611 Olive Street
St. Louis MO 63101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

Mail Date: 04/20/2010

Applicant	: Willi Meyer	: DECISION ON REQUEST FOR
Patent Number	: 7596969	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/424,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1615** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Adrian E. Conway :
Application No. 10/424,521 : DECISION ON PETITION
Filed: April 28, 2003 : PURSUANT TO
Attorney Docket No.: 02-8017 : 37 C.F.R. § 1.137(B)
Title: SELECTIVE PACKET :
DISCARD APPARATUS AND METHOD :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 17, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 30, 2008, 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 July 31, 2008. A notice of abandonment was mailed on January 13, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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 that was received on March 17, 2009 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

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.[3] In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Michael B. Stewart
Rader, Fishman & Grauer PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, Michigan 48304

---

3 See 37 C.F.R. § 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).

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of :
Ronald Nick Kalla, et al. :
Application No. 10/424,529 : DECISION ON PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. SUS9-2003-0264-US1 :

This is a decision on the petition under 37 CFR 1.313(c), filed December 17, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
>
> (2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or
>
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
Office of Petitions

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

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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11400 BURNET ROAD
AUSTIN TX 78758

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JAN 09 2008

OFFICE OF PETITIONS

In re Application of :
Ronald Nick Kalla, et al. :
Application No. 10/424,529 : DECISION GRANTING PETITION
Filed: April 25, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AUS9-2003-0264-US1 :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed January 4, 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 November 19, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2195 for processing of the request for continued examination under 37 CFR 1.114 filed December 17, 2007 and for consideration of the information disclosure statement filed January 4, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. 6

Brian M. Hoffman
FENWICK & WEST L.L.P.
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JUN 18 2004

Technology Center 2100

In re Application of:
William E. Sobel
Application No. 10/424,532
Filed: April 25, 2003
For: USE OF GEO-LOCATION DATA FOR SPAM DETECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 03, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 03, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Edward J. Radlo
SONNENSCHEIN NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

HOWREY SIMON ARNOLD & WHITE, LLP-OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of: :
Smedley et al. :
Application No. 10/424,539 : ON PETITION
Filed: April 24, 2003 :
Title of Invention: :
DISCRETE PARTICLE ELECTROLYZER :
CATHODE AND METHOD OF MAKING SAME :

This is in response to a petition under 37 CFR 1.47(a), filed August 20, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

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 23, 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 18, 2003, requiring, *inter alia*, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant petition wherein Petitioner avers that an unexecuted declaration was sent to the nonsigning inventor but he refused to sign the declaration. The petition is supported by the Declaration of Jennifer L. Montgomery, wherein Ms. Montgomery states that the declaration and assignment documents were sent to the nonsigning inventor who stated that he would not sign them. *Montgomery Declaration at p.1.*

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) as 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).

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(s) or their legal representative. See, MPEP 409.03(e).

As to item (2), Petitioner has failed to provide an acceptable oath or declaration. Petitioner submits several declarations listing each inventor as the second inventor, with no indication as to the identity of the other inventors. None of the individual Declarations list all inventors, and while the page numbers of the declaration are numbered consecutively, there is no other indication that inventors three through seven exist.

The Manual for Patent Examining Procedure ("MPEP"), section 602, Sole or Joint Designation, provides:

> When joint inventors execute separate oaths or declarations, *each oath or declaration should make reference to the fact that affiant is a joint inventor together with each of the other inventors indicating them by name*. This may be done by stating that he or she does verily believe himself to be the original, first and joint inventor *together with "A" or "A & B, etc."* as the facts may be. (Emphasis supplied)

Further as to item (2), the declaration should list all inventors. The MPEP 409.03(a) further provides:

> All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all 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 inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

A Declaration identifying all inventors to all inventors, signed by the available inventors with the signature block of the non-signing inventor(s) left blank, is required.

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
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ALEXANDRIA, VA 22313-1450
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#10

Martin de Tezanos Pinto
3003 Windchase Blvd., #10
Houston, TX 77082

In re Application of: :
Smedley et al. :
Application No. 10/424,539 :
Filed: April 24, 2003 :
Title of Invention: :
DISCRETE PARTICLE ELECTROLYZER :
CATHODE AND METHOD OF MAKING SAME :

COPY MAILED

NOV 14 2003

OFFICE OF PETITIONS

LETTER

Dear Mr. Tezanos Pinto:

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: HOWREY SIMON ARNOLD & WHITE, LLP-OC
301 RAVENSWOOD AVENUE
BOX 34
MENLO PARK, CA 94025

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

HOWREY SIMON ARNOLD & WHITE, LLP-OC
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OFFICE OF PETITIONS

In re Application of:
Smedley et al.
Application No. 10/424,539
Filed: April 24, 2003
Title of Invention:
DISCRETE PARTICLE ELECTROLYZER
CATHODE AND METHOD OF MAKING SAME

ON PETITION

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed October 31, 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, Martin de Tezanos Pinto, refuses to join the application after having been presented with the application for signature.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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Howrey - SV

In re Application of:
Smedley et al.
Application No. 10/424,539
Filed: April 24, 2003
Title of Invention:
DISCRETE PARTICLE ELECTROLYZER CATHODE AND METHOD OF MAKING SAME
04813.0045.NPUS01

ON PETITION

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed October 31, 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, Martin de Tezanos Pinto, refuses to join the application after having been presented with the application for signature.

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

DOCKETED 1/21/05

Copied from 10424571 on 02/22/2005

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APR 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Shoji, et al.
Application No. 10/424,559
Filed: April 25, 2003
For: METHOD FOR OPERATING STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 07 March 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §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.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

JAN 10 2006

Technology Center 2100

In re Application of: OHNO, et al.
Application No. 10/424,563
Filed: April 25, 2003
For: METHOD FOR CONTROLLING STORAGE SYSTEM, AND STORAGE CONTROL APPARATUS

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

This is a response to the petition filed January 20, 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. On August 31, 2005, Applicant filed a request to withdraw the petition to make special (in the above identified application), as a first Office action was mailed on August 2, 2005.

In accordance with Applicant's request on August 31, 2005, the petition to Make Special is **DISMISSED**.

It is noted that a Notice of Allowability and Notice of Allowance and Issue Fee(s) Due was mailed to Applicant on December 29, 2005.

Any questions regarding this decision should be directed to the undersigned on 571-272-3595.

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

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RALEIGH, NC 27627

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JUN 24 2005

OFFICE OF PETITIONS

In re Application of
Paul H. Nichols et al
Application No. 10/424,566
Filed: April 28, 2003
Attorney Docket No. 9314-44

: DECISION GRANTING
: PETITION

This is a decision on the petition filed July 28, 2003,[1] requesting that the above-identified application be accorded a filing date of April 28, 2003, rather than the presently accorded filing date of April 29, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 28, 2003. The petition is accompanied by, inter alia, a copy of the USPS Track and Confirm system information showing that the package bearing Express Mail label No. EV193585588US was accepted and enroute on April 28, 2003, which is the same Express Mail number found on the original itemized transmittal accompanying the original application papers located in the official file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 28, 2003. Accordingly, the instant application is entitled to a filing date of April 28, 2003, and has been so accorded.

The petition is granted. No fee is due and none has been charged.

This matter is being referred to Technology Center AU 2122 for examination in due course.

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

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

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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301 RAVENSWOOD AVENUE, BOX 34
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of
Stuart I. Smedley et al
Application No. 10/424,571
Filed: April 24, 2003
Attorney Docket No. 0481300014.NPUS00

ON PETITION

Docket Department
File
Action File Req for Reconsider
Due Date 3/30/04
W/Ext's
Initials ll 2/4/04

This is in response to the petition under 37 CFR 1.47(a), filed August 29, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), Jennifer L. Montgomery states in her declaration that "on May 29, 2003, an unexecuted declaration complying with 37 CFR § 1.63 was sent to Dr. Pinto for signature." She also states in her declaration that Exhibits A, B, and C were attached. Petitioner has not provided a copy of the Exhibits A, B, and C as evidence to show that a copy of the application papers (specification, claims, and drawings) has been presented to nonsigning inventor Dr. Pinto.

Where there is an express or oral refusal, that fact, along with the time and place of the

refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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

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

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

By fax: (703) 872-9306

Telephone inquiries related to this decision should be directed to at Wan Laymon(703) 306-5685.

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

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301 RAVENSWOOD AVENUE
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MENLO PARK, CA 94025

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FEB 24 2005

OFFICE OF PETITIONS

In re Application of :
Stuart I. Smedley et al :
Application No. 10/424,571 : DECISION ACCORDING STATUS
Filed: April 24, 2003 : UNDER 37 CFR 1.47(A)
For: METHOD OF PRODUCTION OF METAL :
PARTICLES THROUGH ELECTROLYSIS :

This is a decision on the petition filed January 18, 2005, requesting reconsideration of a decision mailed January 30, 2004,[1] which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to Technology Center AU 1746 for examination in due course.

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

[1] The reconsideration originally filed on March 18, 2004 has not to date been associated with the instant official file.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/28/06

TO SPE OF : ART UNIT 1742

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/424577** Patent No.: **7081174**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The proposed claim 1 is the same as the finally rejected claim 1 filed 8/22/05 and the proposed claim 7 is the same as the finally rejected claim 9 filed 8/22/05.

Roy King — SPE

1742 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : December 12, 2006

Patent No. :7,081,174
Inventor : Hayashi et al.
Patent Issued : July 25, 2006
Docket No. : 3824-030724

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 1.323.

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertaining to claims 1 and 9 of which applicant has referred; the proposed claim 1 is the dame as the finally rejected claim 1 filed August 22, 2005 and the proposed claim 7 is the same as the finally rejected claim 9 filed August 22, 20005. Respectively, the patent with regard to the above is considered in accordance with the record in the Patent and Trademark Office.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Kent E. Baldauf
The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 14219-1845

CBN/arg

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Paper No.

LAWRENCE M. LAVIN, JR.
MONSANTO COMPANY
PATENT DEPARTMENT, E2NA
800 N. LINDBERGH BOULEVARD
ST LOUIS, MI 63167

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OFFICE OF PETITIONS

In re Application of	:	
Thomas J. La Rosa, et al.	:	DECISION GRANTING
Application No. 10/424,599	:	PETITION UNDER
Filed: April 28, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 38-21(53223)B	:	

This is a decision on the petition, filed October 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Holly Prutz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Ms. Prutz 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 regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 18, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 1646 for examination in due course.

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

cc: Holly Logue Prutz
Arnold & Porter
555 Twelfth Street, NW
Washington, DC 20004-1206

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LAWRENCE M. LAVIN, JR.
PATENT DEPARTMENT, E2NA; MONSANTO COMPANY
800 N. LINDBERGH BOULEVARD
ST. LOUIS MO 63167

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DEC 04 2007

OFFICE OF PETITIONS

In re Application of	:	
LaRosa et al.	:	DECISION ON PETITIONS
Application No. 10/424599	:	UNDER 37 CFR 1.48(a) AND
Filed: 04/28/2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 38-21(53223)B	:	

This is a decision on the petitions filed on September 27, 2007, which are treated as (a) a request under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Nordine Cheikh and Jingdon Liu as inventors and (b) and a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED.**

PETITION UNDER 37 CFR § 1.48(a)

37 CFR § 1.48(a) states, in pertinent part:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.
>
> Amendment of the inventorship requires:
>
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

A declaration in compliance with 37 CFR §§ 1.63 and 1.67 made by all of the inventors has been filed, along with the statement of lack of deceptive intent signed by the persons sought to be added as inventors. The processing fee set forth in 37 CFR § 1.17(i) has also been received.

In accepting the request under 37 CFR § 1.48(a), the Office is construing the inventorship set forth in the declaration in compliance with 37 CFR §§ 1.63 and 1.67 filed with the request as the desired order of the inventors' names. If a different order of inventors is desired, a petition under 37 CFR § 1.182 to change the order of the inventors' names, accompanied by the required fee, must be filed.

As a result of the papers filed on September 27, 2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR § 1.48(a)(1).

The inventorship of this application has been changed by the addition of: Nordine Cheikh and Jingdong Liu, both of Chesterfield, MO, as joint inventors.

Office PALM records have been corrected to reflect the correct inventorship of this application. The inventorship of the application is set forth in the enclosed corrected Filing Receipt.

PETITION UNDER 37 CFR §§ 1.78(a)(3) and (a)(6).

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.

The amendment to the specification to include the claim for benefit of the prior-filed applications is improper. In this regard, the reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly **incorporates by reference** the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). However, the claim for benefit of priority to the prior-filed application properly appears on the Application Data Sheet and will be used for purposes of amending the application to claim priority under 35 U.S.C. § 120.

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

Any questions concerning this matter may be directed to 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 1631 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisory Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/424,599	04/28/2003	1631	880	38-21(53223)B	3	3

CONFIRMATION NO. 3520

CORRECTED FILING RECEIPT

Lawrence M. Lavin, Jr.
Patent Department, E2NA; Monsanto Company
800 N. Lindbergh Boulevard
St. Louis, MO 63167

OC00000026929823

Date Mailed: 12/03/2007

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)

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Domestic Priority data as claimed by applicant

This application is a CIP of 09/985,678 11/05/2001 ABN
which is a CON of 09/304,517 05/06/1999 ABN
This application 10/424,599
is a CIP of 09/565,240 05/08/2000 ABN
and is a CIP of 09/874,708 06/05/2001 ABN
which claims benefit of 60/211,750 06/15/2000

Foreign Applications

If Required, Foreign Filing License Granted: 08/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/424,599**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Soy nucleic acid molecules and other molecules associated with transcription plants and uses thereof for plant improvement

Preliminary Class

536

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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OCT 15 2008

David R. Marsh
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ATTN: IP DOCKETING
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In re Application of :
J. LA ROSA et al :Decision on Petition
Serial No.: 10/424,599 :
Filed: April 28, 2003 :
Attorney Docket No.: 3520 :

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.103(a) filed on August 14, 2008 requesting reconsideration of the restriction requirement.

BACKGROUND AND DISCUSSION

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On September 26, 2005, the Examiner required a restriction between the recombinant DNA comprising the nucleic acid sequences of originally filed Claims 1-3, namely between SEQ ID NO: 1-SEQ ID NO: 142,842.

On January 9, 2006, Applicant elected recombinant DNA comprising the nucleic acid SEQ ID NO: 85,805 and the DNA encoding the corresponding polypeptide sequence of SEQ ID NO: 228,647 and argued that a reasonable number of such nucleotide sequences should be permitted.

On March 22, 2006, the Examiner considered the traversal and made the restriction requirement FINAL. The examiner rejected Claims 1-3 under various 35 U.S.C. 101, 112, 1st and 2nd paragraphs, 102(f) as well as obviousness type double patenting.

On June 22, 2006, the Applicant filed a response to the Office Action.

On August 28, 2006, the Examiner considered Applicants remarks and mailed an Ex Parte Quayle Action closing prosecution except for a formality.

On January 24, 2007, Applicants filed a compact disk to address the Examiner's formality requirement.

On March 27, 2007, the Examiner mailed a non-final rejection containing two separate rejections of Claims 1-3 under 35 U.S.C. 102.

On September 26, 2007, Applicants filed a response to the outstanding Office Action, a petition to amend priority under 37 C.F.R. 1.78(a)(3) and requested correction of inventorship under 37 C.F.R. 1.48(a). Applicants added dependent Claims 4-5.

On December 4, 2007, the requests to amend the inventorship and the priority were granted.

On April 16, 2008, the Examiner mailed a Final Office action rejecting Claims 1-3 and withdrawing Claims 4-5 from consideration. The Examiner stated that Claims 4-5 are directed to an independent or distinct invention from the invention originally claimed.

On June 2, 2008, Applicant filed an After Final amendment.

On June 16, 2008, the Examiner and Applicant held an interview.

On June 23, 2008, the Examiner mailed an Advisory action.

On August 14, 2008, applicants filed this petition under 37 CFR 1.144 to request that the Office reconsider the restriction requirement.

On August 18, 2008, Applicants filed a Request for Continued Examination, a petition under 1.103(a) to suspend action pending a decision on the petition filed under 37 CFR 1.144 and amended the previously pending claims.

DISCUSSION

The petition and file history have been carefully considered.

The petition filed August 14, 2008 argues that Claims 1-3 and 4-5 are not independent or distinct inventions.

MPEP 803 states:

> There are 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).

...

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

In the Office action mailed 16 April 2008, it is noted that the examiner failed to provide reasons why Claims 4 and 5 were considered independent or distinct from Claims 1-3 and why it would be a burden on the examiner if restriction were not required.

The claims as currently pending are set forth below:

1) (Currently Amended) A recombinant DNA construct comprising [a] the nucleic acid sequence of SEQ ID NO: 85,805.

2) (Currently Amended) A recombinant DNA construct comprising a polynucleotide encoding a polypeptide having [an] the amino acid sequence of SEQ ID NO: 228,647.

3) (Currently Amended) A method of producing a plant having an improved property, wherein said method comprises transforming a plant with a recombinant construct comprising a promoter region functional in a plant cell operably joined to a polynucleotide comprising a coding sequence for a polypeptide associated with said property, and growing said transformed plant, wherein said polypeptide is a polypeptide useful for improving plant heat tolerance, wherein said polypeptide comprises [a] the amino acid sequence of SEQ ID NO: 228,647.

4) (Withdrawn) The recombinant DNA construct of claim 1, further comprising a nucleic acid sequence selected from the group consisting of SEQ ID NO: 1 through SEQ ID NO: 142,842.

5) (Withdrawn) The recombinant DNA construct of claim 2, further comprising a polynucleotide selected from the group consisting of a polynucleotide encoding a polypeptide having an amino acid sequence selected from the group consisting of SEQ ID NO: 142,843 through SEQ ID NO: 285,684.

Claim 1 is directed to the subcombination, the recombination DNA construct comprising the nucleic acid sequence of SEQ ID NO: 85,805. Claim 4 is directed to the combination of the recombinant DNA construct comprising the nucleic acid sequence of SEQ ID NO: 85,805 and further comprises one of the nucleic acid sequences of SEQ I DNA: 1-142,842. A similar analysis may be made for the subcombination of Claim 2 and the various combinations of Claim 5.

Thus the invention of Claims 1-3 and the inventions of claims 4 and 5 are related as subcombination and plural combinations. MPEP 806.05(c) states:

To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a serious search burden if restriction were not required as evidenced by separate classification, status, or field of search. See MPEP § 808.02.

The inventions are distinct if it can be shown that a combination as claimed:

(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and

(B) the subcombination can be shown to have utility either by itself or in another materially different combination.

When these factors cannot be shown, such inventions are not distinct.

MPEP 806.05(d) states:

Where claims to two or more subcombinations are presented along with a claim to a combination that includes the particulars of at least two subcombinations, the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). For example, if an application claims ABC/B/C wherein ABC is a combination claim and B and C are each subcombinations that are properly restrictable from each other, the presence of a claim to C provides evidence that the details of B are not required for the patentability of combination ABC.

Claims 4 and 5 are withdrawn from consideration as being directed to an invention which is distinct from the elected invention for the following reasons:

Invention of Claims 1-3 and the inventions of claims 4-5 are related as subcombination and plural combinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, each individual combination as claimed does not require the particulars of the subcombination as claimed for patentability because the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). The subcombination can be used on its own for a separate utility, such as a probe to detect DNA sequences homologous to SEQ ID No 85,805, for example.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant

is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries); the prior art applicable to one invention would not likely be applicable to another invention; and the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph and obviousness type double patenting.

MPEP 806.05(d) provides the following guidance on rejoinder practice for combination and subcombination inventions:

Upon determining that all claims directed to an elected combination invention are allowable, the examiner must reconsider the propriety of the restriction requirement. Where the combination is allowable in view of the patentability of at least one of the subcombinations, the restriction requirement between the elected combination and patentable subcombination(s) will be withdrawn; furthermore, any subcombinations that were searched and determined to be allowable must also be rejoined. If a subcombination is elected and determined to be allowable, nonelected claims requiring all the limitations of the allowable claim will be rejoined in accordance with MPEP § 821.04.

DECISION

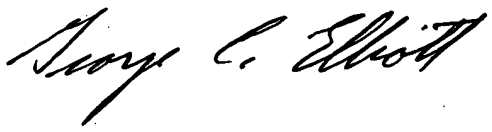
The petition filed under 37 C.F.R. 1.103(a) is **DISMISSED** as moot because the petition under 1.144 has been decided herein. The filing of a petition under 37 CFR 1.144 or 1.181 does not stop any response time periods nor waive applicants responsibility to respond timely to any outstanding actions.

The petition filed under 37 CFR 1.144 is **DENIED** for the reasons set forth above. Claims 4-5 remain withdrawn from consideration.

The application will be forwarded to the examiner for consideration of the Request for Continued Examination and the preparation of a new Office action consistent with this decision. If Claims to the originally presented subcombination become in condition for allowance, then any claim which depends upon allowable claims should be considered for rejoinder per MPEP 821.04 and 821.04(a).

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

Should there be any questions about this decision, please contact Special Program Examiner 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.



George Elliott
Director, Technology Center 1600
jb/jg

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
David C. Racenet et al. :
Application No. 10/424,606 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No.: **2671 CON (203-2856CON)** :

This is a decision on the petition filed November 19, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

In response to a Final Office Action mailed September 14, 2006 which set a three month period for reply, a Notice of Appeal was filed January 19, 2007(certificate of mail date January 16, 2007) with a one month extension of time request filed January 25, 2007 (certificate of mail date January 17, 2007). Thereafter, an Appeal Brief was filed March 20, 2007 (certificate of mail date March 16, 2007) however, on May 7, 2007, the USPTO mailed a Notification of Non-Compliant Appeal Brief. A one month or thirty day period for reply was set. Petitioner responded with an amended brief on June 8, 2007 (certificate of mail date June 6, 2007). The Examiner found the Amended Appeal Brief to still be non-compliant and accordingly, A Notice of Abandonment was mailed October 5, 2007.

Petitioner argues that the Amended Appeal Brief filed June 8, 2007 (certificate of mail date June 6, 2007) was in fact compliant.

The Examiner of Record has reviewed the brief a second time and noted that the applicant did not correct the deficiencies in the brief of 6/8/07 and primarily just

described the claimed subject matter more fully. Thus the brief was not compliant and the abandonment appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of
David C. Racenet et al.
Application No. 10/424,606
Filed: April 28, 2003
Attorney Docket No.: **2671 CON (203-2856CON)**

ON PETITION

This is a decision on the petition filed February 29, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application.

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

In response to a Final Office Action mailed September 14, 2006 which set a three month period for reply, a Notice of Appeal was filed January 19, 2007(certificate of mail date January 16, 2007) with a one month extension of time request filed January 25, 2007 (certificate of mail date January 17, 2007). Thereafter, an Appeal Brief was filed March 20, 2007 (certificate of mail date March 16, 2007) however, on May 7, 2007, the USPTO mailed a Notification of Non-Compliant Appeal Brief. A one month or thirty day period for reply was set. Petitioner responded with an amended brief on June 8, 2007 (certificate of mail date June 6, 2007). The Examiner found the Amended Appeal Brief

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

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

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

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

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

to still be non-compliant and accordingly, A Notice of Abandonment was mailed October 5, 2007.

Comes now petitioner with a substitute appeals brief and an argument that the delay in filing a timely and compliant brief was unintentional.

The Examiner of record has indicated that the Substitute Appeal Brief under 37 CFR 41.37 submitted February 29, 2008 with the instant petition is acceptable.

This application is being forwarded to Technology Center 3731 for review of the Appeal Brief filed February 29, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6993465
Issue Date: January 31,2006
Application No. 10424643
Filed: April 28,2003
Attorney Docket No. 867-001US

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

This is a decision on the electronic petition, filed February 22,2010 ,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 22,2010 . 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)
6993465	2006-01-31	10424643	2003-04-28	4830/003

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tiberiu Weisz/	Date (YYYY-MM-DD)	2010-02-22
Name	Tiberiu Weisz	Registration Number	29876

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

Paper No.

WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of
Cardemon et al.
Application No. 10/424,652
Filed: April 26, 2003
Attorney Docket No. 1416-19

DECISION ON PETITION

This is a decision on the "PETITION FOR CORRECTION OF FILING DATE IN ACCORDANCE WITH 37 C.F.R. §1.10(d)," filed December 16, 2003. The petition includes a persuasive showing that the petition was originally filed April 28, 2003. Petitioner requests that the above-identified application be accorded a filing date of April 25, 2003, rather than the presently accorded filing date of April 26, 2003. This petition was recently forwarded to the undersigned for consideration.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on April 25, 2003, pursuant to the requirements of 37 C.F.R. § 1.10, and thus, is entitled to the date of April 25, 2003 as the filing date.

37 CFR § 1.10(d) provides that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director 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 Director, 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. 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.

Petitioner's arguments and evidence have been considered, but are not persuasive that the application was placed in Express Mail on April 25, 2003, pursuant to § 1.10. The petition was filed promptly within the meaning of § 1.10(d)(1). However, petitioner satisfies neither § 1.10(d)(2) nor (3).

Petitioner contends that this application was deposited with the USPS in a package with an Express Mail label number of EV162851442US. Petitioner asserts that a second Express Mail package with a label number of EV334132794US was processed by the USPS employee and the re-scanning of the second package led to the receipt for both applications showing a date of "4/26/03 12:00 AM."

However, a review of the application file reveals that Express Mail mailing label number, EV334132794US was placed on the utility patent application transmittal prior to the original mailing. Moreover, this Express Mail mailing label number appears twice on the transmittal. This transmittal identifies as being transmitted therewith the papers that constitute the correspondence presently accorded a filing date of April 25, 2003. Unfortunately, this Express Mail number is different from the one that petitioner states was the number for the Express Mail package containing the instant application.

Moreover, petitioner has failed to make a showing "which establishes, to the satisfaction of the Director, 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," as required under 37 C.F.R. §1.10(d)(3).

First of all, petitioner has not supplied a copy of the Express Mail mailing label (either EV162851442US or EV334132794US).

Second, petitioner, in so many words, acknowledges that any Express Mail mailing labels should show a "date-in" of April 26, 2003, given the scanning of the label barcodes.

Third, attorney Daniluck's statements that the USPS incorrectly scanned the barcodes, leading to incorrect date-ins, is not corroborated. Such corroborating evidence must be shown to have come into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Petitioner is advised that the corroborating evidence from the USPS required under §1.10(d)(3) may be in the form of a statement from the USPS on USPS letterhead acknowledging an error in entering the "date-in" or a copy of the relevant "Express Mail" Corporate Account Mailing Statement.

This petition is **DISMISSED**.

Any request for reconsideration should be filed within **TWO (2) MONTHS** of the mail date of this decision. This time period is governed by § 1.181(f).

This application with a filing date of April 26, 2003, will be examined in due course.

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

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

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

By hand:
Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Cardemon et al. : DECISION ON PETITION
Application No. 10/424,652 :
Filed: April 25, 2003 :
Attorney Docket No. 1416-19 :
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION FOR CORRECTION OF FILING DATE IN ACCORDANCE WITH 37 C.F.R. § 1.10(d)," filed January 26, 2005. Petitioner requests that the above-identified application be accorded a filing date of April 25, 2003, rather than the presently accorded filing date of April 26, 2003.

The petition is **GRANTED**.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on April 25, 2003, pursuant to the requirements of 37 C.F.R. § 1.10, and thus, is entitled to the date of April 25, 2003 as the filing date. An initial petition filed December 16, 2003 was dismissed for i) failure to show that 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 ii) failure to show to the satisfaction of the Director, 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. Petitioner's showing was determined to not be sufficiently corroborated.

On renewed petition, petitioner clarifies that the correct Express Mail label number for filing the instant application is EV334132794US, which petitioner states is consistent with the Image File Wrapper at the USPTO PAIR website. Petitioner further

contends that the Express Mail label should show a "date-in" of April 25, 2003, as both Express Mail packages deposited were handed to the USPS employee prior to midnight on April 25, 2003; however, due to a scanning error, the Express Mail package was re-scanned (causing an error in the "date-in"). Petitioner further made clear that the showing was corroborated by the sworn affidavit of the attorney of record.
Petitioner's evidence and arguments have been reconsidered, and found persuasive. Given petitioner's clarification of the proper Express Mail number (and label) associated with this application, it is concluded that petitioner has now satisfied § 1.10(d)(2).

Further, in light of petitioner's arguments on renewed petition, the initial petition prepared by attorney Daniluck has been reconsidered. The petition includes a sworn affidavit corroborating the claim of deposit on April 25, 2003 and error in entering a date-in of April 26, 2003. In addition, the petition was prepared on Monday, April 28, 2003, within one business day of April 25, 2003. Petitioner has now established to the satisfaction of the Director, 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," as required under 37 C.F.R. §1.10(d)(3).

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to OIPE for **correction of the filing date to April 25, 2003**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DW 09-03

Paper No. 6

WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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OFFICE OF PETITIONS

In re Application of	:	
Spirin and Dubinin	:	
Application No. 10/424,663	:	DECISION REFUSING STATUS
Filed: 26 April, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. A02170US	:	

This is in response to the petition filed on 2 September, 2003, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 26 April, 2003, without an executed oath or declaration.

Accordingly, on 27 June, 2003, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing. An IDS was filed on 30 June, 2003, but as an oath or declaration was not included, a Notice of Incomplete Reply (Nonprovisional) was mailed on 12 August, 2003.

In response, on 2 September, 2003 (certificate of mailing 25

August, 2003), the present petition was filed, accompanied by the petition fee and late filing surcharge.

Petitioners assert that both non-signing inventors cannot be reached to sign 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 items (1) and (2).

In regards to item (1), petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to each non-signing inventor for review.[1] In this respect, it is noted that the petition does not indicate whether a copy of the present patent application (specification, including claims, drawings, if any, and the declaration) was ever sent or given to the non-signing inventors.

Petitioners may show proof that a copy of the application papers were sent or given to the inventor by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application was sent or given to the non-signing inventor. If there is a written refusal, a copy of that written refusal should be provided with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

---

[1] MPEP 409.03(d).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. 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 officer 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.[2]

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

---

[2]MPEP 409.03(b).

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
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MEMPHIS TN 38120-4367

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OFFICE OF PETITIONS

In re Application of	:	
Spirin and Dubinin	:	
Application No. 10/424,663	:	DECISION REFUSING STATUS
Filed: 26 April, 2003	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. A02170US	:	

This is in response to the renewed petition filed on 20 November, 2003, under 37 CFR 1.47(b).

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(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 26 April, 2003, without an executed oath or declaration.

Accordingly, on 27 June, 2003, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing. An IDS was filed on 30 June, 2003, but as an oath or declaration was not included, a Notice of Incomplete Reply (Nonprovisional) was mailed on 12 August, 2003. In response, on 2 September, 2003 (certificate of mailing 25 August, 2003), the present petition was filed, accompanied by the

petition fee and late filing surcharge.

Petitioners have now provided a declaration of facts by Christopher Vaughan stating that he mailed a copy of the application to each inventor with a request that the inventor sign and return the declaration. However, neither inventor returned an executed declaration.

An oath or declaration was also provided, signed by the assignee on behalf of the non-signing inventors. However, the declaration does not list the title of the individual signing on behalf of the assignee.

Petitioners assert that both non-signing inventors cannot be reached to sign 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 (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. 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 officer 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]

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: 2011 South Clark Place
Crystal Plaza 2 Lobby
Room 1B03
Arlington, VA 22202

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

WYATT, TARRANT & COMBS, LLP
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DEC 17 2003

OFFICE OF PETITIONS

In re Application of :
Spirin and Dubinin :
Application No. 10/424,663 : DECISION ACCORDING STATUS
Filed: 26 April, 2003 : UNDER 37 CFR 1.47(b)
Attorney Docket No. A02170US :

This is in response to the twice renewed petition filed on 9 December, 2003, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioners have shown, by the declaration of Christpher Vaughan, that a copy of the application was sent to each of the non-signing inventors. The inventors, however, have failed to sign and return the declaration naming them as the joint inventors. Additionally, petitioners have shown proprietary interest by providing a document signed by both non-signing inventors stating that they have assigned their full right of and interest in the subject patent application to the Rule 47 applicant. 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 the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should 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

Vladimir Dubinin
Ul Usacheva 21
Appart 69
MOSCOW 119048
RUSSIAN FEDERATION

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Spirin
Application No. 10/424,663
Filed: 26 April, 2003
For: RECHARGEABLE BATTERY

Dear Dr. Dubinin:

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

UNITED STATES 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

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of :
Maskaly et al. :
Application No. 10/424,672 : DECISION ON PETITION
Filed: April 27, 2003 :
Attorney Docket No. 0492611-0495/MIT-9882 :

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 submit a proper response in a timely manner as required by the Notice of Drawing Inconsistency with Specification, mailed March 20, 2008. A Notice of Abandonment was mailed June 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 to the drawing, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

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
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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Kuniaki Nagayama	:	DECISION ON PETITION TO
Application Number: 10/424682	:	WITHDRAW HOLDING OF
Filing Date: 04/28/2003	:	ABANDONMENT
Attorney Docket Number: 15934-003001	:	

This is a decision on the "PETITION TO WITHDRAW NOTICE OF ABANDONMENT," filed on March 31, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

A Communication Re: Appeal was mailed on March 20, 2008, stating that the application is abandoned for failure to timely file an appeal brief in response to the Notice of Appeal filed on September 10, 2007.

Petitioners aver that the Notice of Abandonment was mailed prematurely, as the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) had not yet expired.

A review of the record reveals that on September 10, 2007, a Notice of Appeal and fee was filed.

On March 31, 2008, the subject petition was filed.

On April 10, 2008, a Request for Continued Examination (RCE), amendment as the submission under 37 CFR 1.114, and a five (5) month extension of time was filed.

37 CFR 1.114 states, in pertinent part:

> (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
>
> (1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Accordingly, in filing the RCE and submission under 37 CFR 1.114 and five (5) month extension of time on April 10, 2008, petitioners filed a complete and timely response to the Notice of Appeal filed on September 10, 2007.

As such, there is no abandonment in fact. The Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

This matter is being referred to Technology Center Art Unit 1634 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 28, 2006

Patent No. : 7,118,247 B2
Inventor(s) : Zavbi, et al.
Issued : October 10, 2006
Title : **STRUCTURE FOR ILLUMINATING A ROULETTE WHEEL**
Docket No. : 21282-00039-US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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

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

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

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

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

Elisha M. Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

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

CBN/eme

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/424,694	04/29/2003	Matthias Soellner	010408.52336US	2376

23911 7590 03/26/2008

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

EXAMINER	
MANCHO, RONNIE M	

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
03/26/2008	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.

Copied from 10424695 on 04/09/2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 25 2008

TECHNOLOGY CENTER 3600

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

In re Application of
Matthias Soellner
Application No. 10/424,694
Filed: April 29, 2003
For: METHOD AND APPRATUS FOR PROCESSING NAVIGATIONAL SIGNALS IN A SATELLITE NAVIGATION SYSTEM

: DECISION ON THE PETITION
: REGARDING REQUEST TO
: WITHDRAW FINALITY

Applicant's petition under 37 CFR 1.181, filed September 20, 2007, requests withdrawal of the finality of the Final office action mailed April 20, 2007.

The petition is **DISMISSED as MOOT**.

A review of the file reveals that a Request for Continued Examination was filed October 19, 2007. Thus, the issue of the premature finality of the April 20, 2007 Office action is moot.

A thorough review of the file has been conducted.

It is noted that a 112, first paragraph issue was raised by the examiner in the Final office action. The 112, first paragraph rejection raised the issue that the amendment to the claims 'signal x"(t)...' was not enabled.

Review of the amended claim of February 1, 2007 revealed no such amendment. It appears the 'signal x"(t)...' amendment was a typographical error in the examiner's rejection.

An interview was conducted December 18, 2007 to discuss overcoming the 112, first paragraph enablement rejection of the Final office action dated April 20, 2007.

The filing of the RCE and supplemental amendment dated December 21, 2007 canceling ' x"(t) ' from the claim language and applicant's arguments addressing the overcoming of the 112, first paragraph rejection enablement indicate that an agreement was reached.

It appears from the record that based upon the amendment to the claims and the interview conducted to overcome the 112, first paragraph rejection of the Finality of the office action was proper.

The petition for withdrawal of the finality is **DISMISSED as MOOT**.

Copied from 10424695 on 04/09/2008

The Request for Continued Examination filed October 19, 2007 has been entered and the case forwarded to the examiner for action.

A Non-Final office action dated January 29, 2008 has been mailed to applicant.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at (571) 272-6878.

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

jwk/snm: 2/26/07

SM

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ROSELAND NJ 07068

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OFFICE OF PETITIONS

In re Application of
Andrew Doddington
Application No. 10/424,705
Filed: April 28, 2003
Attorney Docket Number: 14846-11

ON PETITION

This is a decision on the petition filed October 12, 2006 under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on June 14, 2006, after the applicant failed to timely file a proper reply to the Final Office Action mailed March 13, 2006. Accordingly, a Notice of Abandonment was mailed on October 5, 2006.

Petitioner asserts that the Final Office Action was never received.

The file record discloses that the Final Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the patent file and docketing records fo this specific application, wherein receipt of the Final Office Action, mailed March 13, 2006, would have been filed, had it been received. Petitioner also documents the procedures used for handling of USPTO correspondence in an effort to show that the Notice mailed March 13, 2006 was not received.

In that the statements from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed March 13, 2006, it is apparent that the Office Action was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Final Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

The file is being forwarded to Technology Center 2168 for the remailing of the Final Office Action originally mailed on March 13, 2006. Telephone inquiries concerning the remailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Zenon Todorski
c/o Jan C. Todorski
204 Oldlitchfield Road
P.O. BOX 1479
Washington CT 06793-1116

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Zenon Todorski :
Application No. 10/424,819 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR §1.137(b), September 29, 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)."

The above-cited application became abandoned for failure to reply in a timely manner to the Notice mailed August 11, 2005, which set a shortened period for reply of one (1) month from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on October 12, 2005. A Notice of Abandonment was mailed October 31, 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 (2) above.

As to item (2) above, the fee for the instant petition was $770.00 but the petition was accompanied by $707.00. Effective October 2, 2008, the fee for the instant petition is $810.00. The renewed petition must accompanied by an additional $103.00 to be considered grantable. It is not necessary for petitioner to re-file all of the documents filed September 29, 2008. Petitioner need only file a document titled "Renewed Petition under 37 CFR 1.137(b) and the remainder of the petition fee.

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.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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Zenon Todorski
c/o Jan C. Todorski
204 Oldlitchfield Road
P.O. BOX 1479
Washington CT 06793-1116

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In re Application of	:	
Zenon Todorski	:	
Application No. 10/424,819	:	ON PETITION
Filed: August 29, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR §1.137(b), November 18, 2008, to revive the above-identified application.

The renewed petition is **granted**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice mailed August 11, 2005, which set a shortened period for reply of one (1) month from its mailing date. A proper response was not received within the allowable period, and the application became abandoned on October 12, 2005. A Notice of Abandonment was mailed October 31, 2006.

The replies filed April 2, 2007, May 12, 2008, and November 18, 2008, are noted.

The application file is being directed to Technology Center 3700, GAU 3748 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
PATENT OPERATIONS
TWO INDEPENDENCE WAY, POST OFFICE BOX 5312
PRINCETON, NJ 08540-5312

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Cedric Thebault, et al.
Application No. 10/424,827
Filed: April 28, 20003
Attorney Docket No. PD020038

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 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 an Office action mailed January 25, 2007. A Notice of Abandonment was mailed on August 23, 2007. On September 19, 2006, 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).

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 $790; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2629 for processing of the RCE 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

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Joseph S. Tripoli
THOMSON Licensing Inc.
Patent Operations
Two Independence Way, Post Office Box 5312
Princeton, NJ 08540-5312

Mail Date: 04/21/2010

Applicant	: Cedric Thebault	: DECISION ON REQUEST FOR
Patent Number	: 7609235	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/424,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **869** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
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Hanify & King, P.C.
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Marcos M. Campos	: DECISION ON REQUEST FOR
Patent Number	: 7590642	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/424,838	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **623** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

In re Application of :
KALL, Jonathan J. et al. :
Application No. 10/424,847 : DECISION ON PETITION
Filed: April 29, 2003 : TO WITHDRAW
Attorney Docket No. **ROCK0010UC1-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 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 instructed the undersigned to transfer this case, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AMIN & TUROCY**
NATIONAL CITY CENTER, 24TH FLOOR
1900 EAST 9TH STREET
CLEVELAND, OH 44114

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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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OFFICE OF PETITIONS

In re Application of
KALL, Jonathan J. et al.
Application No. 10/424,847
Filed: April 29, 2003
Attorney Docket No.
ROCK0010UC1/ALBRP523USB

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to NEIFELD IP LAW, PC has been revoked by the assignee of the patent application on September 19, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROCKWELL AUTOMATION, INC./(AT)**
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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JUN 07 2005

Director's Office
Group 3700

In re application of
Ho Seon Choi

Serial Number: 10/424,865
Filed: April 29, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **AIR CONDITIONING SYSTEM AND METHOD OPERATING SUITABLY TO USER'S CHARACTERISTICS**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution, due to newly discovered prior art. The examiner will communicate an office action 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 applicant.

Telephone inquiries should be directed to Cheryl Tyler at (571) 272-4834.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 6/6/05

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JAN 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Hogan & Hartson
Biltmore Tower, Suite 1900
500 South Grand Avenue
Los Angeles CA 90071

In re Application of: Hirata et al.
Application No. 10/424,883
Filed: April 28, 2003
For: STORAGE NETWORK SYSTEM, MANAGING APPARATUS, MANAGING METHOD AND PROGRAM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed November 15, 2004 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 Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

MBS

10484885

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-1-06

Paper No.: _____

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6904778

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:

MERELY CORRECTING TYPOS

3676

SPE

3641

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Staple Here Only

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,904,778

DATED : June 14, 2005

INVENTOR(S) : Thomas Jasper

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

IN THE SPECIFICATION:

Column 4, line 30, change "FIGS." to --FIG.--.
Column 8, line 41, change the word "properly" to --proper--.
Column 9, line 34, after the word "are", remove the word --an--.
Column 4, line 8, change the word "or" to --of--.
Column 9, line 59, change the number "53" to --52--.
Column 11, line 37 change the word "enter" to --entered--.
Column 12, line 26 change the word "fo" to --of--.
Column 14, line 29 change the word "wheels" to --wheel--.
Column 16, line 50 change the word "a" to --at--.
Column 17, line 57 change the word "anus" to --arms--.
Column 18, line 67 change the word "nor" to --not--.
Column 19, line 22 change the word "gaze" to --gate--.
Column 20, line 13 after the word "of" insert --recess-engaging--.
Column 20, lines 18-26, delete claims 40 and 41.
Column 20, line 27 change "42" to --40--.
Column 20, line 41 change "a" to --the--.
Column 20, line 50, change "43" to --41--.
Column 20, line 50 change "42" to --40--.
Column 20, line 52 change "44" to --42--.
Column 20, line 52 change "42" to --40--.

OK
SDS
3/7/07

MAILING ADDRESSOF SENDER:

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

PATENT NO. 6,904,778
No. of add'l copies
@ 50¢ per page: __

SUBSTITUTE FORM PTO76-22

NOV 29 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

MICHAEL H. BANIAK
BANIAK PINE & GANNON
SUITE 1200
150 N. WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

APR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Silver, Brian H.	:	
Application No. 10/424,887	:	ON PETITION
Filed: April 28, 2003	:	
Attorney Docket No. 5297/164	:	

This is a decision on the petition under 37 CFR §1.102(d), filed March 10, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3763 for expedited prosecution.

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

OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Seiji Kobayashi et al
Application No. 10/424,911
Filed: April 29, 2003
Attorney Docket No. 233406US-6DIV

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

This is a decision on the petition, filed June 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 March 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 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

RECEIVED: 6/15/05
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 6/16/05
Type of Resp(s):
Due Date(s):

COPY MAILED
JUN 14 2005
OFFICE OF PETITIONS

In re Application of :
Seiji Kobayashi et al :
Application No. 10/424,911 : DECISION GRANTING PETITION
Filed: April 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 233406US-6DIV :

This is a decision on the petition, filed June 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 March 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 3653 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

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

COPY

~~SPE W. Kozak~~

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/28/07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/424,911 Patent No.: 7020057

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: _____

RICHEMOND DORVIL
SUPERVISORY PATENT EXAMINER
SPE

2627
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,020,057

DATED: March 28, 2006

INVENTOR(S): Seiji KOBAYASHI, et al.

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

Column 2, line 51, change "according the" to --according to the--.

Column 7, line 59, change "8J-2" to --8J-3--.

Column 14, line 55, change "accordingly" to --according--.

Column 36, line 59 to line 67, change

"1. An optical disc apparatus, comprising:

main modulation signal generating means for generating a main modulation signal according to main data;

laser beam irradiating means for irradiating a laser beam on said optical disk according to said main modulation signal, thereby forming a pit string or a mark string on said optical disk;

modulation signal generating means for generating a sub-modulation signal according to subdata; and

OK to Enter Paul 1/26/2007

Mailing address of sender:

Customer Number
22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 03/02)

Patent No. 7,020,057

No. of add'l copies @ .30 per page

I:\USER\RLEE\CERTIFICATE OF CORRECTION LETTERS\PROJECT COC\233406US\1050 SHEET 1 1-14-07.DOC

JAN 3 0 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/30/09

Paper No.: —

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/424934 Patent No.: 7523948 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: The certificate of correction has been approved.

SPE Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentees:	Schwarz, *et al.*	Docket No.:	NOK-35693US
Serial No.:	10/424,934	Patent No.:	7,525,948 B2
Filed:	April 29, 2003	Issued:	April 28, 2009
For:	Method and Apparatus for Utilizing Synchronization Information		

Request for Issuance of Certificate of Correction
Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon review of the above-identified issued patent, Patentees note errors in the patent that should be corrected as shown on the attached Certificate of Correction.

The mistakes noted on the attached Certificate of Correction were incurred through the fault of the Patentees. Accordingly, please charge the required fee of $100.00 and any additional amount, or credit any overpayment to Deposit Acct. No 50-1065 of the below mentioned firm.

Patentees respectfully solicit the issuance of the requested Certificate of Correction.

Respectfully submitted,

7/22/09
Date

Attorney for Patentees
Glenn W. Boisbrun
Reg. No. 39,615

Slater & Matsil, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, TX 75252
Tel: 972-732-1001
Fax: 972-732-9218

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,525,948 B2

APPLICATION NO. : 10/424,934

ISSUE DATE : April 28, 2009

INVENTOR(S) : Schwarz, *et al.*

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

In the drawings, Sheet 1 of 4, in the top right corner, the rectangle with UE inside it should be marked as item no. 36.
In Col. 6, line 43, before must delete "still".
In Col. 9, line 3, delete "where in" and insert --wherein--.
In Col. 9, line 5, after comprising insert --:--.
In Col. 10, line 23, delete "where in" and insert --wherein--.

Approved: AB

Date: 8/14/09

MAILING ADDRESS OF SENDER

Slater & Matsil, L.L.P.
17950 Preston Rd.
Suite 1000
Dallas, TX 75252

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
SND FLOOR
ARLINGTON VA 22202

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Dominique Vadrot et al :
Application No. 10/424,944 : DECISION GRANTING PETITION
Filed: April 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 0512-1163 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of June 19, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2164.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 24 2008

SQUIRE, SANDERS
& DEMPSEY L.L.P.
8000 TOWERS CRESCENT
14TH FLOOR
TYSONS CORNER VA 22182-2700

In re Application of	:	
Johansson, et al.	:	
Application No. 10/424,947	:	DECISION
Filed: 29 April, 2003	:	
Attorney Docket No. 60279.00139	:	

This is a decision on the petition filed on 16 November, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 23 February, 2007, with reply due absent extension of time on or before 23 May, 2007;
- the application went abandoned after midnight 23 May, 2007;
- the Office mailed the Notice of Abandonment on 11 October, 2007
- on 16 November, 2007, Petitioner filed the instant petition with, *inter alia*, averment of timely filing supported with a 23 May, 2007, of an after-final amendment, which the record reflects was filed but which Petitioner, as one registered to practice before the

Office, was aware was not a proper reply and not of right,[1] and the Examiner mailed an Advisory action on 18 July, 2007, and thereafter Petitioner filed on 23 August a Notice of Appeal with fee and request and fee for extension of time, which averment Petitioner supported with a date-stamped (AU 23 2007") receipt card and copies of the papers averred to have been filed, all in compliance with the guidance in the Commentary MPEP §711.03 (c).

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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]

---

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

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

[3] 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] 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).

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 11 October, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2614 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.

---

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

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

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

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

MAIL

MAR 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD
SUITE 1200
DURHAM NC 27707

In re Application of:
GREEN, STUART
Application No. 10/424,952
Filed: April 28, 2003
For: AUTHORING OF COMPLEX AUDIOVISUAL PRODUCTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed, August 07, 2006 under MPEP§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 fails to fully meet requirement (6) inasmuch as there is no clear discussion of the patentable novelty over the references as required by 37 CFR §1.111 (c). Applicant's petition provides a discussion of the reference WO 1999/038098 and indicates the distinction of the reference from the independent claims is "a first step wherein components and transitions are first defined, and then automatically expanded to provide the intermediate datastructure of nodes and links". However, the feature of "automatically expanded" is not found in any of the independent claims. Also, the feature "to provide the intermediate datastructure" is only found in independent claims 1, 64, 67, 70, and 73. With respect to the statement of novelty regarding reference EP 0,871,177, the claims are broader than the limitation "a first step where functional components are defined (e.g., display question X), and the video and audio representation of the question is automatically produced at a later time" identified by the applicant. Finally, in reference to US patents 6,100,881 and 5,892,507, the Applicant's petition provides a generic statement of how each patent fails to teach or suggest the claimed invention. However, this section does not fulfill the requirement of item (6) inasmuch petitioner does not point out with any particularity how the language of the claims patentably distinguish from the references. Therefore, the petition does not satisfy the requirement that the petition **must** fully discuss the references, pointing out with the particularity 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

–

Michael Horabik
Special Program Examiner
Technology Center 2600

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JJGJr: 08-03

Paper No: 3

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of
Bottomly, et al.
Application No. 10/424,958
Filed: 29 April, 2003
Attorney Docket No.: 8194-720

: ON PETITION

This is a response to the paper filed in parts on 28 July, and 13 August, 2003, styled as a "Petition to Accord the Proper Filing Date," considered under 37 C.F.R. §1.10,[1] seeking to obtain

[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

a 28 April, 2003, filing date, rather than the 29 April, 2003, filing date presently accorded

The petition is **GRANTED**, and, no fee is charged.

BACKGROUND

The record indicates that:

- Petitioner David K. Purks (Reg. No. 40,133) (Petitioner) alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS), however, no Express Mail number seems to be stated in the petition;

- the Office thus far has accorded a filing date of 29 April, 2003, the date of delivery, as provided in 37 C.F.R. §1.10(a);

- the instant petition is supported by the statement of Petitioner included in the petition (however, the statement also (misstates) the "correct" filing date as "May 7, 2003"), and:

  --what is indicated to be a true copy of Express Mail label No. EV193630790US attached, and--while no "date in" is set forth thereon--there is a USPS date stamp of "Apr 28, 2003; and

  --what is indicated to be a copy of the two- (2-) page application transmittal for

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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]

the instant application evidencing the Express Mail label No: EV193630790US (on the second page), the title of the claimed invention (near the middle of the first page) and Petitioner's docket or case number at the top of the first page)).

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/424,958, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 28 April; and
- issue a filing receipt specifying the filing date as that of 28 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

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Paper No. 3

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SEP 24 2003

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/424,959
Filed: April 28, 2003
Attorney Docket No. 5649-1068

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.10, filed July 28, 2003, requesting that the above-identified application be accorded a filing date of April 28, 2003, rather than the presently accorded filing date of April 29, 2003.

Petitioners allege that the application was deposited in Express Mail service on April 28, 2003. However, the "date-in" on petitioners' Express Mail customer receipt is blank.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis added).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as

of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Here, petitioners have met the requirements of 37 CFR 1.10(d). The petition was filed promptly. In addition, the number of the Express Mail mailing label (EV 193630812 US) was placed on the application papers. Lastly, while the Express Mail label does not bear a date-in date, the fact that the label bears a USPS date stamp of April 28, 2003 serves as "corroborating evidence" that the above-identified application was deposited with the USPS on April 28, 2003.

Furthermore, USPTO Express Mail database records indicates that the papers bearing Express Mail mailing label EV 193630812 US were deposited with the USPS on April 28, 2003. A copy of a printout from the USPTO's USPS Express Mail Information Database is enclosed.

In view of the above, the application is entitled to a filing date of April 28, 2003. The petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **April 28, 2003, not April 29, 2003.**

Telephone inquires specific to this decision may be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: USPTO's USPS Express Mail Information Database (1 page)

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JUN 18 2004

OFFICE OF THE DIRECTOR
TC 3600

HOWARD M. SANDY
QUICKSTONE DECORATIVE FACINGS, INC.
107 Gemini Crescent
Richmond Hill ON L4S2K7
CANADA

In re application of
Howard M. Sandy :
Application No. 10/424,969 :
Filed: April 28, 2003 :
For: DECORATIVE SIDING PANEL AND METHOD OF MANUFACTURE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 26, 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 B) above.

As to condition B), given the statement in the request that "Client's failure to abide by the terms of the Engagement Agreement between client and attorney/firm. Client has been informed of all pending deadlines in this case", it is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

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

SNM/pav: 5/24/04

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OFFICE OF PETITIONS

In re Application of	:	
Howard M. Sandy	:	
Application No. 10/424,969	:	ON PETITION
Filed: April 28, 2003	:	
Attorney Docket No. QKSN:003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 15, 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 May 16, 2004.

The Revocation and Substitute Power of Attorney filed February 8, 2005 is accepted and made of record.

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

This matter is being referred to Technology Center AU 3635.

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

Attachment: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of :
David E. ORR :
Application No. 10/425,019 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 40551.0001US01 :

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 application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 26, 2006, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 27, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an acceptable amendment that places the application in condition for allowance; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action under Ex parte Quayle of September 26, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Martens, et al. :
Application No. 10/425,030 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. :
TYHC:0166/FLE/BAK

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 9, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance, mailed July 9, 2007. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on October 10, 2007. The Office mailed a Notice of Abandonment on November 6, 2007.

It is obvious from reviewing the file that the Notice of Allowance was mailed to the incorrect address. The Notice of Allowance should have been addressed to the address set forth in the Power of Attorney, filed on December 27, 2005.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 3771 for re-mailing of the July 9, 2007 Notice of Allowance to the above address of record, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20003

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Lanni et al.	:	
Application No. 10/425,035	:	ON PETITION
Filed: April 29, 2003	:	
Attorney Docket No. 2559-0410	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely and properly reply to the final Office action mailed March 16, 2005. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on September 16, 2005. Accordingly, this application became abandoned on September 16, 2005. A Notice of Abandonment was mailed January 23, 2006.

The RCE submitted on September 16, 2005 lacked the required submission under 37 CFR 1.114. Petitioner has instructed that the Amendment submitted on December 16, 2005 be considered as the required submission.

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed on September 16, 2005.

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

Liana Chase
Petitions Examiner
Office of Petitions

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Robert B. Reeser, III (IGT - 26668)
Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis MO 63102

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Scott A. Boyd, et al. :
Application No. 10/425,078 : DECISION ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 4164-226 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, to revive the above-identified application and the paper filed April 17, 2008 requesting that status as a Small Entity be removed.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 17, 2007. Accordingly, the date of abandonment of this application is March 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 payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

In accordance with the applicant's request, status as a Small Entity has been removed. The balance of $720 in the issue fees due for a large entity has been charged to the Deposit Account 01-2384, as authorized by the applicant in the paper filed April 17, 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 appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272 - 4914.

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

David Bucci
Petitions Examiner
Office of Petitions

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JJGJR.: 08-05

Paper No: __

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Cojic, et al.
Application No. 10/425,106
Filed: 28 April, 2003
Attorney Docket No. 6746C

ON PETITION

This is a decision on the renewed petition filed on 30 June, 2005, to revive the above-identified application under 37 C.F.R. §1.137(b) as abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 14 December, 2004, with reply due absent extension of time on or before 14 March,. 2005;
- the application went abandoned by operation of law after midnight 14 March, 2005;
- the Office mailed the Notice of Abandonment on 23 June, 2005;
- with the instant petition with fee, Petitioner filed an after-final amendment, which the Examiner indicates he would enter–a copy of which is sent to the record–(as having placed the application *prima facie* in condition for allowance), as the reply, and made the statement of unintentional delay.

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.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, the statement (and possibly a showing) of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has satisfied the requirements of 37 C.F.R.§1.137(b).

---

[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.

CONCLUSION

Accordingly, the instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 3700 further processing in due course.

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

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

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Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of
Lection et al
Application No. 10/425,107
Filed: April 28, 2003
Attorney Docket No:
RSW920030035US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2007, 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 proper response to a final Office Action which was mailed on January 11, 2007. 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 April 12, 2007. A Notice of Abandonment was mailed on July 26, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. The examiner has determined the amendment submitted with the petition does not place the application in condition for allowance. Accordingly, this application cannot be revived.

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.

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

enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/425,107	**Applicant(s)** LECTION ET AL.	
	Examiner James H. Blackwell	**Art Unit** 2176	

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

THE REPLY FILED 27 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: *6,16,26 and 31-39*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 11. NOTE:

Applicant argues that Wolfe only describes a single content source rather than a plurality of content sources.
The Examiner disagrees to the extent that one of ordinary skill in the art at the time of invention would have realized that the invention of Wolfe was capable of multiple sources of content, at least by processing the individual sources one at a time and making them available to the client.

Applicant argues that the prior art of Wolfe does not disclose a "portal server."
The Examiner disagrees.
A "portal" at the time of the present invention is: "A Web site that serves as a gateway to the Internet. A Portal is a collection of links, content, and services designed to guide users to information they are likely to find interesting --- news, weather, entertainment, commerce sites, chat rooms, and so on. Yahoo!, Excite, MSN.com, and Netscape Netcenter are examples of portals." (Pg. 413, Microsoft Computer Dictionary, 5th Ed., copyright 2002).
As indicated in the FInal Rejection dated 07/21/2006, Wolfe discloses a portal. Wolfe also discloses a "portal server," in that the system comprises a plurality of servers capable of serving portal pages to client devices (see Figure 1).

Applicant also argues that Wolfe fails to disclose that control tags are attached to web content at the content source "prior to the delivery of the web content to a portal page server" (Remarks, Pg. 8, lines 2-3).
The Examiner disagrees for the reasons previously set forth in the Final Rejection dated 07/21/2006.
Additionally, Wolfe discloses a user, at a content source, adding embedded codes to existing HTML content (see Pg. 2, Par. 19). The codes are embedded into the HTML content prior to a user's request for the content and prior to the content being delivered to the proxy server. Thus, Wolfe teaches "control tags" that are attached to web content at the content source "prior to the delivery of the web content to a portal page server."

Applicant further argues that subsequent use of the web content with the attached control tag is "independent of whether a hand-held device is used."
The Examiner disagrees for reasons previously set forth in the FInal Rejection dated 07/21/2006.
Additionally, Wolfe teaches that the HTML content has the embedded codes in order to enable a variety of handheld devices to view the HTML content. However, the HTML content having the embedded codes may be viewed at PCs when the HTML content is requested by a user at a PC. That is, the embedded codes do not prevent any device from displaying the HTML content.

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OFFICE OF PETITIONS

In re Application of :
Lection et al :
Application No. 10/425,107 : DECISION ON PETITION
Filed: April 28, 2003 :
Attorney Docket No: :
RSW920030035US1

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 25, 2008, to revive the above-identified application.

The petition is GRANTED.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 11, 2007. 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 April 12, 2007. A Notice of Abandonment was mailed on July 26, 2007. A petition filed under 37 CFR 1.137(b) was dismissed on November 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE, amendment and fee, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

A review of the record shows that the correspondence address is associated with customer no. 45541, pursuant to customer's request on May 21, 2007. However, the attorneys/agents of record has not been associated with customer no. 45541. The decision mailed on November 30, 2007, did not call into question petitioner's ability to prosecute the application pursuant to MPEP 405. The Office was notifying petitioner

that Office records do not show that he has been given the authority to prosecute the instant application. To the extent petitioner has previously requested power of attorney be associated with customer no. 45541, a copy of such request should be submitted.

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business on the reply received

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. None

Edward Abrahamson
2905 Mill Run Blvd.
Kissimmee FL 34744

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Edward Abrahamson :
Application No. 10/425,110 : DECISION ON PETITION
Filed: April 29, 2003 : UNDER 37 C.F.R. §1.181
Title: THEE HINGE PIN REMOVER :

This is a decision on the petition filed on November 10, 2004 under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed July 19, 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[1]. Accordingly, the above-identified application became abandoned on October 20, 2004. A Notice of Abandonment was mailed on September 20, 2005.

With the present petition, Petitioner contends that the notice was not received, and asserts that the mailing was returned to the Office by the USPS.

The electronic file has been reviewed, and it is clear that the letter was indeed returned to the Office – along with a notation from the USPS which reads "FORWARD TIME EXP RTN TO SEND."

In view of the fact that the Notice of Allowance was returned to the Office, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

The Technology Center will be notified of this decision, so that the notice can be re-mailed, and the time period for response can be restarted.

---

1 See MPEP §710.02(e).

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. The phone number for the Office of Patent Publication is (703) 308-6789.

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

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COMMISSIONER FOR PATENTS
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Paper No. None

COPY MAILED

OCT 25 2006

OFFICE OF PETITIONS

Edward Abrahamson
2905 Mill Run Blvd.
Kissimmee FL 34744

In re Application of :
Edward Abrahamson :
Application No. 10/425,110 : DECISION ON PETITION
Filed: April 29, 2003 : UNDER 37 C.F.R. §1.181
Title: THEE HINGE PIN REMOVER :

This is a decision on the submission received on September 1, 2006, which is properly treated as a petition under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due mailed July 19, 2004, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees or publication fees[1]. Accordingly, the above-identified application became abandoned on October 20, 2004. A Notice of Abandonment was mailed on September 20, 2005.

A petition under 37 C.F.R. §1.181 was filed on November 10, 2004, where Petitioner asserted that the notice was not received. This petition was granted via the mailing of a decision on October 31, 2005.

The record shows that the Technology Center mailed a new Notice of Allowance and Issue Fee Due on March 13, 2006. The notice indicated that no fees were due, as both the issue and publication fees were received on January 4, 2005.

1 See MPEP §710.02(e).

A notice of abandonment was subsequently mailed on August 1, 2006, indicating that the issue and publication fees were not received.

This notice was mailed in error, and as such, said notice is hereby **VACATED**. The Office regrets any inconvenience which may have been caused by this error.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

The Office of Patent Publication will note that both the issue and publication fees were received on January 4, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. The phone number for the Office of Patent Publication is (703) 308-6789.

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

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Paper No.

LAWRENCE M. LAVIN, JR.
MONSANTO COMPANY
PATENT DEPARTMENT, E2NA
800 N. LINDBERGH BOULEVARD
ST LOUIS, MI 63167

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NOV 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Jingdong Liu, et al.	:	DECISION GRANTING
Application No. 10/425,114	:	PETITION UNDER
Filed: April 28, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 38-21(53313)B	:	

This is a decision on the petition, filed October 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Thomas E. Holsten 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 in whose behalf he acts. However, if Mr. Holsten 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 regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 12, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 12, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 1646 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: Thomas E. Holsten
Arnold & Porter
555 Twelfth Street, NW
Washington, DC 20004-1206

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/425,114	04/28/2003	Jingdong Liu	38-21(53313)B

CONFIRMATION NO. 4946

Lawrence M. Lavin, Jr.
Patent Department, E2NA
Monsanto Company
800 N. Lindbergh Boulevard
St. Louis, MO 63167

OC000000011206113

Date Mailed: 11/06/2003

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 02/12/2004.

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".

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/425,114	:	DECISION ON PETITION
Filed: April 28, 2003	:	UNDER 37 CFR 1.78(a)(3)
Atty Docket No. 38-21(53313)B	:	and
	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the Petition to Amend Priority Under 37 C.F.R. § 1.78(a)(3), filed July 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed applications set forth in the executed supplemental Application Data Sheet filed July 26, 2007. In light of the benefit claims set forth in the ADS, the petition is also being treated under 37 C.F.R. § 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional applications.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 37 CFR 1.78(a)(5)(ii), respectively, and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(3) and 37 CFR § 1.78(a)(6), respectively, must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), respectively, 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 37 CFR 1.78(a)(5)(ii), respectively, and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title and in an executed Application Data Sheet, as required by 37 CFR 1.78(a)(2)(iii).

The amendment is not acceptable. The reference to add the above-noted, prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference prior-filed applications not incorporated by reference on filing of the application. For example, application No. 09/773,370 was not incorporated by reference on filing of the application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Nonetheless, the reference to the prior applications as required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a) have been submitted in an application data sheet (ADS). See 37 CFR 1.78(a)(2)(iii) and (5)(iii). Petitioner is reminded that any ADS filed after the application must be executed and must be entitled supplemental ADS.

Moreover, a final Office action was mailed in this application on September 25, 2006. On July 26, 2007, applicants submitted a Request for Continued Examination (RCE)(with fee and submission), made timely by an accompanying petition for extension of time. The RCE is accepted for consideration of the supplemental ADS after mailing of a final Office action.

This pending nonprovisional application was filed on April 28, 2003. Further, each of the prior-filed provisional applications (as reflected in the attached filing receipt) for which priority is claimed was filed within twelve months of an intermediate application.

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1638 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) of the prior-filed applications as set forth in the executed ADS filed July 26, 2007.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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800 N. LINDBERGH BOULEVARD
MAILZONE E2NA
ST. LOUIS MO 63167

MAILED

FEB 12 2009

OFFICE OF PETITIONS

Applicant: Liu et al.
Appl. No.: 10/425,114
Filing Date: April 28, 2003
Title: NUCLEIC ACID MOLECULES AND OTHER MOLECULES ASSOCIATED WITH PLANTS AND USES THEREOF FOR PLANT IMPROVEMENT
Attorney Docket No.: 38-21(53313)B
Pub. No.: US 2007/0283460 A9
Pub. Date: December 13, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, received on February 4, 2008, 2008, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein many inventors' names who were added by a "Request for Correction of Inventorship Under 37 CFR 1.48(a)" filed on July 26, 2007 were 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 does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to listing the added inventors. The decision to grant applicants' request to add the additional inventors was in the Office Action dated October 3, 2008, which was too late in the publication cycle as the application was published on December 13, 2007. The publication includes the inventor information based on the application as filed with the office. The omission of an inventor's name and residence does not affect the understanding of

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the application. The mistakes do 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.

A "request for republication of an application previously published" filed under 37 CFR 1.221(a) "must include a copy of the application compliance with the Office's electronic filing system [EFS] requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." Applicant's petition does not comply with the EFS requirements. The republication will not take place and the publication fee set forth in § 1.18(d) has not been charged. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

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

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

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LAWRENCE M. LAVIN, JR.
MONSANTO COMPANY
PATENT DEPARTMENT, E2NA
800 N. LINDBERGH BOULEVARD
ST LOUIS, MI 63167

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. La Rosa, et al.	:	DECISION GRANTING
Application No. 10/425,115	:	PETITION UNDER
Filed: April 28, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 38-21(53222)B	:	

This is a decision on the petition, filed October 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Holly Prutz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Ms. Prutz 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 regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 12, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 28, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to the Office of Initial Examination Division to await a reply to the Notice to File Missing Parts of Nonprovisional Application mailed October 10, 2003. Applicant should note that a failure to timely reply within the period set in the notice mailed October 10, 2003 will result in the application again becoming abandoned.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: Holly Logue Prutz
Arnold & Porter
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
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Gail P. Wuellner
Monsanto Company
Patent Department, E2NA
800 N. Lindbergh Boulevard
St. Louis MO 63167

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APR 29 2008

OFFICE OF PETITIONS

In re Application of
La Rosa et al.
Application No. 10/425,115
Filed: April 28, 2003
Attorney Docket No. 38-21(53222)B

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) & (a)(6) and 1.48

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 20, 2007 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 **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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.

As to item (1), a review of the application shows petitioner is required to file a petition under 37 CFR 1.137(f) for application no. 09/816,660 to grant continuity to the present application. The

decision granted in application no. 09/816,660 only grants continuity for two applications neither of which is application no. 09/816,660 filed on March 26, 2001.

Before the petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) and petitions under 37 CFR 1.48 and 1.137(f) for continuity with application no. 09/816,660 must be filed and granted.

Petition Under 37 CFR 1.48

37 CFR 1.48 requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The petition under 37 CFR 1.48 is **Granted**.

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 Charlema Grant at (571) 272-3215.

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
10/425,115	04/28/2003	1631	880	38-21(53222)B	3	3

CONFIRMATION NO. 3474

CORRECTED FILING RECEIPT

Gail P. Wuellner
Monsanto Company
Patent Department, E2NA
800 N. Lindbergh Boulevard
St. Louis, MO 63167

Date Mailed: 04/25/2008

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)

Thomas J. La Rosa, Fenton, MO;
Yihua Zhou, Ballwin, MO;
David K. Kovalic, University City, MO;
Yongwei Cao, Chesterfield, MO;
Jingdong Liu, Chesterfield, MO;
Nordine Cheikh, Chesterfield, MO;
Hridayabhiranjan Shukla, Ballwin, MO;
Thomas G Ruff, Wildwood, MO;
Kristine J Hardeman, Westerly, RI;
Michael D Edgerton, St. Louis, MO;
Marguerite Varagona, Ballwin, MO;
Wei Wu, Chesterfield, MO;
Timothy W Conner, Chesterfield, MO;

Power of Attorney:

Joel Freed--25101
Gary Bond--29283
Thomas Kelley--29938
Lawrence Lavin--30768
Dennis Hoerner Jr--30914
Thomas McBride--32706
Grace Bonner--32963
Brian Stierwalt--33213
Donna Scherer--34719
Felissa Cagan--35089

Domestic Priority data as claimed by applicant

This application is a CIP of 09/985,678 11/05/2001 ABN which is a CON of 09/304,517 05/06/1999 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 10/09/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/425,115**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Nucleic acid molecules associated with plants

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Gail P. Wuellner
Monsanto Company
Patent Department, E2NA
800 N. Lindbergh Boulevard
St. Louis MO 63167

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of
La Rosa et al.
Application No. 10/425,115
Filed: April 28, 2003
Attorney Docket No. 38-21(53222)B

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 29, 2008, 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215. 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 3474 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

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
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/425,115	04/28/2003	1631	880	38-21(53222)B	3	3

CONFIRMATION NO. 3474

CORRECTED FILING RECEIPT

Gail P. Wuellner
Monsanto Company
Patent Department, E2NA
800 N. Lindbergh Boulevard
St. Louis, MO 63167

Date Mailed: 12/22/2008

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**

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Wei Wu, Chesterfield, MO;
Timothy W Conner, Chesterfield, MO;

Power of Attorney:

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Gary Bond--29283
Thomas Kelley--29938
Lawrence Lavin--30768
Dennis Hoerner Jr--30914
Thomas McBride--32706
Grace Bonner--32963
Brian Stierwalt--33213
Donna Scherer--34719
Felissa Cagan--35089

Domestic Priority data as claimed by applicant

This application is a CIP of 09/985,678 11/05/2001 ABN
which is a CON of 09/304,517 05/06/1999 ABN
This application 10/425,115
is a CIP of 09/849,526 05/07/2001 ABN

which claims benefit of 60/202,214 05/08/2000
This application 10/425,115
is a CIP of 09/684,016 10/10/2000
and is a CIP of 09/654,617 09/05/2000 ABN
and is a CIP of 09/816,660 03/26/2001 ABN
and is a CIP of 09/873,402 06/05/2001 ABN
and is a CIP of 09/865,419 05/29/2001 ABN
which claims benefit of 60/208,063 05/31/2000
This application 10/425,115
is a CIP of 09/865,439 05/29/2001 ABN
which claims benefit of 60/207,458 05/30/2000

Foreign Applications

If Required, Foreign Filing License Granted: 10/09/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/425,115**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Nucleic acid molecules associated with plants

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Evelyn M. Sommer
Suite 825
250 Park Avenue
New York, NY 10022

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Mizrahi, et al. : DECISION ON PETITION
Application No. 10/425,118 :
Filed: April 29, 2003 :
Docket No.: Mizrah :

This is a decision on the petition under 37 CFR 1.137(a), filed February 9, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned August 28, 2005 for failure to timely submit a proper reply to the Notice of Non-Complaint Appeal Brief (Notice) mailed July 27, 2005. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. This decision precedes Notice of Abandonment.

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 present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

The Office 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." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. 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). A petition to revive an application as unavoidably abandoned cannot be granted where 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).

Petitioner attributes the delay in timely responding to the Office communication to non-receipt of the Notice. Petitioner argues that the Notice was sent to the wrong correspondence address, having been mailed to practitioner's old address despite the fact that practitioner's new address was indicated on communications received by the Office on April 18, 2005 and May 24, 2005.

Petitioners' arguments have been considered, but are not found persuasive. The Notice was properly mailed July 27, 2005 to the then correspondence address of record[1]. The Notice, however, was returned by the United States Postal Service on August 25, 2005.

Petitioner is advised that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned

[1] 825 3rd Avenue, 30th Fl., NY, NY 10022.

application of the change of address (See, MPEP 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner **reasonably calculated** to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

Where an attorney changes her correspondence address, she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address in a clearly identifiable manner such that it is evident that a request for change of correspondence address is being made.

The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

Close scrutiny of the responses submitted April 18, 2005 and May 25, 2005 indicates that the responses included practitioner's name, address, registration number, and phone number. These responses, however, cannot be reasonably calculated to reflect an intent by practitioner to request a change of correspondence address as no request for change of correspondence address was expressly set forth on either response. Accordingly, the instant petition is subject to dismissal.

Any renewed petition must be accompanied by evidence that sufficiently establishes that the failure to timely reply to the Notice was unavoidable.

ALTERNATE VENUE

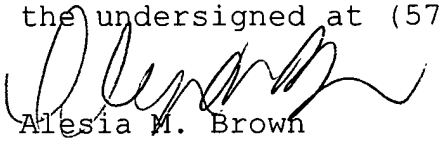
Petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition Randolph Building Dulany Street Alexandria, VA 22314

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 12 2006

OFFICE OF PETITIONS

Evelyn M. Sommer
Suite 825
250 Park Avenue
New York, NY 10022

In re Application of :
Mizrahi, et al. : DECISION ON PETITION
Application No. 10/425,118 :
Filed: April 29, 2003 :
Docket No.: Mizrah :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed May 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 28, 2005 for failure to timely submit a proper reply to the Notice of Non-Complaint Appeal Brief (Notice) mailed July 27, 2005. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. A petition under 37 CFR 1.137(a) was filed February 9, 2006 and March 17, 2006. Notice of Abandonment was mailed March 30, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 3600 for processing of the Appeal Brief submitted with the instant petition.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of :
Ng-Thow-Hing et al. :
Application No. 10/425,122 : DECISION ON PETITION
Filed: April 25, 2003 :
Attorney Docket No. 23085-07784 :

This is a decision on the petition under 37 CFR 1.137(f), filed November 21, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 23, 2004. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications eighteen months after filing.

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

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 23, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2671.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Technology Center 2100

In re Application of:
William E. SOBEL, et al.
Application No. 10/425,123
Filed: April 24, 2003
For: DETECTING SPAM E-MAIL WITH BACKUP E-MAIL SERVER TRAPS

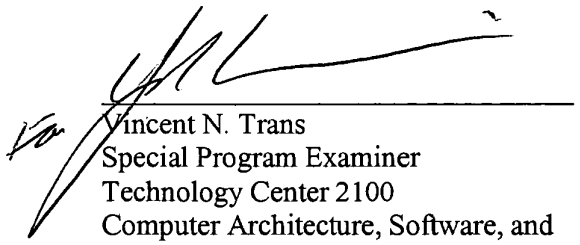
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 28, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Sonnenschein Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

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SILICON VALLEY CENTER
801 California Street
Mountain View, CA 94041

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Technology Center 2100

In re Application of:
William E. Sobel
Application No. 10/425,123
Filed: April 24, 2003
For: DETECTING SPAM E-MAIL WITH BACKUP E-MAIL SERVER TRAPS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 28, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 28, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

ZM Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: SONNENSCHEIL NATH & ROSENTHAL LLP
685 Market Street, 5th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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POUGHKEEPSIE, NY 12601

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Abel et al. :
Application No. 10/425,133 :
Filed: April 28, 2003 :
Attorney Docket No. DE920010061US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/28/2010

Applicant	: Alan O'Neill	: DECISION ON REQUEST FOR
Patent Number	: 7623497	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/425,151	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1297** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Thompson E. Fehr
Goldenwest Corporate Center
Suite 300
5025 Adams Avenue
Ogden UT 84403

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OFFICE OF PETITIONS

In re Application of
Hagen et al.
Application No. 10/425,159
Filed: April 28, 2003
Attorney Docket No. PKELAC

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 16, 2007.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 21, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 22, 2006. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and fee , (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1616 for appropriate action by the Examiner in the normal course of business on the reply received

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOLDENWEST CORPORATE CENTER
SUITE 300
5025 ADAMS AVENUE
OGDEN, UT 84403

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OFFICE OF PETITIONS

In re Application of :
Brent P. Hagen et al :
Application No. 10/425,160 : DECISION GRANTING PETITION
Filed: April 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PKELAM :

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 3, 2005 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, as the extension of time fee submitted with the Appeal Brief was submitted after the abandonment of this application, no extension fees are due. In view thereof, the extension of time fee submitted on November 27, 2006 is

unnecessary. A request for refund of this fee may be made in writing to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1617 for appropriate action in the normal course of business on the Appeal Brief filed November 27, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100518

DATE : June 10, 2010

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction on Patent No.: 7517342

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:

/Nicholas D. Lucchesi/
SPE Art Unit 3763

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/425,171	04/29/2003	Said Elnaffar	CA920020087US1	2915

45112 7590 03/03/2008

Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

EXAMINER	
PHAM, KHANH B	

ART UNIT	PAPER NUMBER
2166	

MAIL DATE	DELIVERY MODE
03/03/2008	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.

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MAR 03 2008

Technology Center 2100

Samuel A. Kassatly
KUNZLER & McKENZIE
8 East Broadway, Suite 600
Salt Lake City, UT 84111

In re Application of:
ELNAFFAR et al.
Application No. 10/425,171
Filed: April 29, 2003
For: SYSTEM AND METHOD FOR IDENTIFYING A WORKLOAD TYPE FOR A GIVEN WORKLOAD OF DATABASE REQUESTS

DECISION ON PETITION

This is a decision on the petition, filed on 16 December 2006, requesting withdrawal of the Notification of Non-Compliant Appeal Brief mailed 17 November 2006.

In the Notification of Non-Compliant Appeal Brief, the Examiner stated "Appellants have not provided any art rejection argument and as such the appeal brief is defective (37 CFR 41.37(c)(1))".

A review of the supplemental Appeal Brief filed on 09 September 2006 indicates that applicant is relying on the affidavit under 37 CFR § 1.132 submitted 14 February 2006 to argue the reference authored by Said S. Elnaffar is not a prior art against all pending claims 1-24. The examiner's holding of defected Appeal Brief for failure to comply with the provision of 37 CFR § 41.37(c)(1)(vii) is in error.

For the above stated reasons, the petition is **GRANTED**. The Notification of Non-complaint Appeal Brief mailed 17 November 2006 is hereby vacated.

The application has been forwarded to examiner of record to consider both the Appeal Brief filed on 08 January 2006 and the supplemental Appeal Brief filed on 09 September 2006 and issue an appropriate Office communication.

Vincent N. Trans, SPRE/WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE: M. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/20/07

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/425,186 Patent No.: 7108120

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: The Request for Certificate of Correction filed 4/9/07 for the purpose of correcting typographical errors or minor in character, which does not change or introduce new matter the claimed invention. Accordingly, the Request has been considered and approved.

SPE — 2876 Art Unit

PTO/SB/ 44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,108,170

DATED : September 19, 2006

INVENTOR(S) : Alexander M. McQueen, Craig D. Cherry, Randy J. Turkal, Alan Jackson Guess and Harold C. Clifford

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 28

Line 23, replace "isobtained" with --is obtained--.

Line 28, before the paragraph commencing with "Returning to Step 616" insert the following paragraph:

-- At step 616, determining whether an add-on code is present. If "Yes" an add-on code is present, proceeding to transmit the base label and add-on data to the POS at step 618 and then indicating good read and sending valid data at step 630. Optionally, at step 619, the system may update the POS database and/or the scanner database to include on its listing that this base label just detected is expected to include an add-on code. --

Line 32, change "add-an" to --add-on--.

Column 30

Line 33, after "expected to include", change "a base" to --an add-on--.

Line 38-45, delete the claim 16 "16. A method of data reading according to Claim 15 further comprising ordering the base labels in the reader list according to a given criteria."

Approved! mw 6/19/07

MAILING ADDRESS OF SENDER: John A. Rafter, Jr.
STOEL RIVES LLP
900 SW 5th Avenue, Suite 2600
Portland, OR 97204
(503) 224-3380

PATENT NO. 7,108,170

No. of additional copies

⇒ 2 of 2

APR 11 2007

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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**

PTO/SB/ 44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,108,170

DATED : September 19, 2006

INVENTOR(S) : Alexander M. McQueen, Craig D. Cherry, Randy J. Turkal, Alan Jackson Guess and Harold C. Clifford

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 4
Line 36, before "scanned" insert --be--.

Column 12
Line 1, before "skilled in the art" insert --those--.

Column 14
Line 65, change "175" to --176--.

Column 15
Line 9, change "175" to --176--.

Column 16
Line 4, change "175" to --176--.
Line 54, before "individual" change "a" to --an--.

Column 20
Line 45, change "commences" to --Commencing--.

Column 21
Line 12, replace "datais" with --data is--.

Column 22
Line 48, replace "determinationat" with --determination at--.

Column 23
Line 47, change "410" to --404--.

Column 25
Line 9, insert --is-- between "474" and "No".
Line 10, change "480" to --484--.

Approved 6/19/07

MAILING ADDRESS OF SENDER: John A. Rafter, Jr.
STOEL RIVES LLP
900 SW 5th Avenue, Suite 2600
Portland, OR 97204
(503) 224-3380

PATENT NO. 7,108,170

No. of additional copies
⇒ 1 of 2

APR 1 1 2007

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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of Oldiges et al. :
Application No. 10/425,188 : Decision on Petition
Filing Date: April 28, 2003 :
Attorney Docket No. 95227/118UTL :

This is a decision on the petition under 37 CFR 1.181, filed September 15, 2005, to withdraw the holding of abandonment. The petition is filed in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.137(b) is **dismissed as moot.**

Facts:

A non-final Office action was mailed February 15, 2005.

Petitioner filed a reply and a request for a two-month extension of time. The papers included an incorrect application number and were matched with the incorrect application. The extension of time fee was applied to the incorrect application.

A Notice of Abandonment was mailed September 2, 2005.

The instant petition was filed September 15, 2005. At the time the petition was filed, $750 was charged to petitioner's deposit account for the petition under 37 CFR 1.137(b).

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

The elements above are deemed met to the extent necessary to support withdrawing the holding of abandonment. Therefore, the petition under 37 CFR 1.181 is granted.

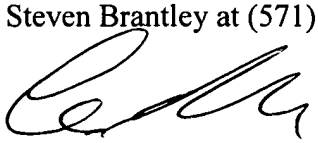
The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The extension of time fee has been transferred from the incorrect application and has been credited to the instant application.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $750 has been credited back to petitioner's deposit account.

Technology Center Art Unit 1764 will be informed of the instant decision. Thereafter, the application will be examined in due course. The Technology Center may wish to note the amendment and remarks filed September 15, 2005, are identical to the papers filed June 20, 2005, except for the application number, application filing date, and title.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MICROSOFT CORPORATION
C/O MERCHANT & GOULD, L.L.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Chad Rothschiller, et al. :
Application No. 10/425,189 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 60001.0228US01/MS302278.1 :

This is a decision on the petition under 37 CFR 1.313(c)(1), filed April 8, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center 2162 for consideration of the amendment filed April 8, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 030905

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

MAR 29 2005

In re Application of:
DAVID RIDLING
Serial No.: 10/425,203
Filed: 04/28/2003
Attorney Docket No.: **042437/192230**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 14, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Raymond O. Linker, Jr., on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, David J. Ridling, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: DAVID J. RIDLING
840 CHANDLER ROAD
SALISBURY, NC 28147

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MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 1 1 2007

OFFICE OF PETITIONS

In re Application of :
Mohammed Zubair Visharam, et al. :
Application No. 10/425.291 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 080398.P557 :

This is a decision on the petition, filed April 24, 2007, 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 timely respond to the Office action of August 9, 2006, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 23, 2007. In response, on April 24, 2007, the present petition was filed.

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 October 2, 2006 of, *inter alia,* Amendment/Response and a Petition for Extension of Time. A copy of the previously submitted reply accompanies the petition.

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." However, a review of the written record confirms that that a timely response was filed, as it is present in the application file.

In view of the above, the holding of abandonment for failure to timely file a response to the Office communication of August 9, 2006 is withdrawn and the application is restored to pending status. The Notice of Abandonment mailed March 23, 2006 is hereby vacated.

This application is being referred to Technology Center AU 2621 for appropriate action in the normal course of business on the reply received October 2, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

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APR 08 2010

OFFICE OF PETITIONS

In re Application of
Nathan B. Baker et al.
Application No. 10/425,314
Filed: April 29, 2003
Attorney Docket Number: 886-451

ON PETITION

This is a decision on the petition, filed February 11, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 10, 2009 for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 8, 2008 which set a three month statutory period for response. Accordingly, the Notice of Abandonment was mailed Aparil 2, 2009.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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SAMUEL A. KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE CA 95120

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Robert T. Berks et al.
Application No. 10/425,351
Filed: May 28, 2003
Attorney Docket No. CA920020034US1

ON PETITION

This is a decision on the petition filed January 30, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 21, 2006 for failure to timely pay the issue fee on or before January 20, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Paper No. 6

Leslie Gladstone Restaino, Esq.
Brown Raysman Millstein Felder & Steiner LLP
163 Madison Avenue
P.O. Box 1989
Morristown NJ 07962-1989

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MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of
Steven O. Marx, et al.
Application No. 10/425,354
Filed: April 28, 2003
Attorney Docket No. 5199-84

ON PETITION

This is a decision in response to the petitions under 37 CFR 1.137(b), filed April 15, 2004, April 19, 2004, April 20, 2004 and May 4, 2004 to revive the above-identified application. Each of the filings appear to be a duplicate copy of a petition, including a declaration under 37 CFR 1.63, filed April 15, 2004.

It is noted that USPTO finance records show two $665 petition fee charges in response to petitions filed April 15, 2004 and April 20, 2004 respectively. Also it is noted that a 5-month extension of time fee was charged in response to extension of time request filed April 20, 2004.

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 $1,005.00 extension of time fee submitted with the petition on April 20, 2004 is unnecessary and will be refunded to petitioner's deposit account as authorized. Further, since the petition fee paid April 20, 2004 is a duplicate charge of the one paid April 15, 2004, counsel's deposit account will be credited $655.

The application became abandoned on August 25, 2003 for a failure to timely respond to a Notice to File Missing Parts mailed June 24, 2003. The notice required an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e).

The petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed April 19, 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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI, PC
280 N OLD WOODARD AVE
SUITE 400
BIRMINGHAM MI 48009

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of
Pravin M. Patel
Application No. 10/425,359
Filed: April 29,, 2003
Attorney Docket No. FLI-12002/03

: DECISION GRANTING PETITION

This is a decision on the petition filed under 37 CFR 1.10 (d) on August 21, 2003 by facsimile transmission requesting that the above-identified application be accorded a filing date of April 29, 2003, instead of the presently accorded filing date of April 30, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on April 29, 2003, pursuant to the requirements of 37 CFR 1.10. Petitioner acknowledges that the date of the deposit in Express Mail shown on petitioner's Express Mail receipt is April 30, 2003, but argues that the application was actually deposited with the USPS on April 29, 2003.

The instant petition is accompanied by an official letter, dated June 30, 2003, from Gary R. Skelton, Postmaster, Birmingham Post Office. The letter states the Express Mail package bearing Tracking No. EV256078602US, the same Express Mail tracking number found on the application papers, was inadvertently given the wrong date-in and that it was mailed on April 29, 2003 and not April 30, 2003 as is written on the outside of the mail. Additionally, Mr. Skelton advises that the tracking system verifies that the express mail item was mailed on April 29, 2003. Petitioner must notify the Office if this is not a correct interpretation.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is April 29, 2003.

In view of the above, the application is entitled to a filing date of April 29, 2003. The petition is granted. No fees are due and none will be charged.

The application is being forward to Technology Center 1615 for examination in due course.

Telephone inquiries may 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
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Paper No.

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080
FINNEGAN, HENDERSON, FARABOW,

MAILED

APR 29 2010

OFFICE OF PETITIONS

Applicant:	:	ON PETITIONS
Aggen et al	:	under 37 CFR 1.183
	:	and
Application No. 10/425,368	:	ON REQUEST FOR RECONSIDERATION
Filed: April 29, 2003	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
P-030-US2	:	
	:	

This is a decision on the petition filed on November 25, 2008, 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 seven hundred and eighty-one (781) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and eighty-one (781) days is **GRANTED IN PART.**

The period of "B" delay began on April 30, 2006 and ended on April 18, 2007, the day before the RCE for a period of 354 days. Applicant asserted "B" delay of 355 days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office provides applicant one month or thirty days whichever is longer to respond to this decision.

After the applicants have an opportunity to be heard on the issuance of t he certificate of correction indicating that the

term of the above identified patent is extended or adjusted by seven hundred and eighty-one (781)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 Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,456,203 B2

DATED : November 25, 2008 Draft

INVENTOR(S) : Aggen 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 (426) days

Delete the phrase "by 426 days" and insert – by 780 days--

PALM INTRANET

Day : Monday
Date: 4/5/2010
Time: 11:12:11

PTA Calculations for Application: 10/425368			
Application Filing Date:	04/29/2003	PTO Delay (PTO):	477
Issue Date of Patent:	11/25/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	51
Post-Issue Petitions:	0	Total PTA (days):	780
PTO Delay Adjustment:	354		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
81	04/05/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	354		
76.5	11/05/2008	PTA 36 MONTHS			
76	11/25/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
75	10/24/2008	EXPORT TO FINAL DATA CAPTURE			
74	10/23/2008	FINISHED INITIAL DATA CAPTURE			
73	10/23/2008	DISPATCH TO FDC			
72	10/15/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
71	09/30/2008	ISSUE FEE PAYMENT VERIFIED			
70	09/30/2008	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
69	09/30/2008	ISSUE FEE PAYMENT RECEIVED			
68	07/04/2008	EXPORT TO INITIAL DATA CAPTURE			
67	07/01/2008	MAIL NOTICE OF ALLOWANCE			
66	06/25/2008	ISSUE REVISION COMPLETED			
65	06/25/2008	DOCUMENT VERIFICATION			
64	06/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	06/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
62	06/23/2008	NOTICE OF ALLOWABILITY			
57	04/30/2008	PARALEGAL TD ACCEPTED			
56	04/29/2008	DATE FORWARDED TO EXAMINER			
55	03/24/2008	RESPONSE AFTER NON-FINAL ACTION			
54	12/27/2007	MAIL NON-FINAL REJECTION			
53	12/21/2007	NON-FINAL REJECTION			
52	10/12/2007	DATE FORWARDED TO EXAMINER			
51	10/04/2007	RESPONSE AFTER NON-FINAL ACTION			

50	07/20/2007	MAIL NON-FINAL REJECTION			
49	07/18/2007	NON-FINAL REJECTION			
48	05/01/2007	DATE FORWARDED TO EXAMINER			
47	04/19/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
46	05/01/2007	DATE FORWARDED TO EXAMINER			
45	04/19/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
44	05/01/2007	DISPOSAL FOR A RCE / CPA / R129			
43	04/19/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	01/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
41	01/18/2007	FINAL REJECTION			
40	10/26/2006	PARALEGAL TD ACCEPTED			
39	10/17/2006	TERMINAL DISCLAIMER FILED		0	37
38	10/24/2006	DATE FORWARDED TO EXAMINER			
37	10/17/2006	RESPONSE AFTER NON-FINAL ACTION			
36	07/18/2006	MAIL NON-FINAL REJECTION			
35	07/10/2006	NON-FINAL REJECTION			
34	04/18/2006	DATE FORWARDED TO EXAMINER			
33	04/05/2006	RESPONSE AFTER NON-FINAL ACTION		9	30
32	04/03/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
31	04/01/2006	DATE FORWARDED TO EXAMINER			
30.1	03/27/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
30	03/27/2006	RESPONSE AFTER NON-FINAL ACTION			
29	03/09/2006	MAIL NON-FINAL REJECTION			
28	03/06/2006	NON-FINAL REJECTION			
27	12/30/2005	DATE FORWARDED TO EXAMINER			
26	12/13/2005	RESPONSE TO ELECTION / RESTRICTION FILED		42	23
25	12/29/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
24	11/17/2005	DATE FORWARDED TO EXAMINER			
23.1	11/01/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
23	11/01/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
22	10/19/2005	MAIL RESTRICTION REQUIREMENT	477		-1
21	10/17/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
20	06/28/2005	MISCELLANEOUS INCOMING LETTER			

19	01/06/2005	MISCELLANEOUS INCOMING LETTER			
18	07/07/2004	MISCELLANEOUS INCOMING LETTER			
17	05/26/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	04/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	01/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	01/06/2004	REFERENCE CAPTURE ON IDS			
13.7	11/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	09/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/15/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/29/2003	PRELIMINARY AMENDMENT			
10	01/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	01/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	07/07/2003	APPLICATION DISPATCHED FROM OIPE			
5	07/08/2003	APPLICATION IS NOW COMPLETE			
4	05/28/2003	CLEARED BY L&R (LARS)			
3	05/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/29/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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FULBRIGHT & JAWORSKI
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600 CONGRESS AVENUE
AUSTIN, TX 78701

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Theodore W. Randolph et al	:	DECISION GRANTING
Application No. 10/425,371	:	PETITION
Filed: April 29, 2003	:	
Attorney Docket No. BARO:004USC1	:	

This is a decision on the petition under 37 CFR 1.10(c), filed April 19, 2004 and resubmitted on August 18, 2004, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of April 29, 2003, rather than the presently accorded filing date of April 26, 2003.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 29, 2003. In support, applicants provided a copy of the Express Mail label, receipt no. EV119099680US bearing a handwritten "date-in" of April 26, 2003, and a USPS date stamp receipt of April 29, 2003. The same Express Mail number is found on the patent application transmittal accompanying the original application papers located in the official file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label; MPEP 513. An independent search of the USPTO's USPS Express Mail Information Database confirms that a package bearing Express Mail label No. EV119099680US was accepted by the USPS at 06:48 pm on April 29, 2003 (copy attached).

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on April 29, 2003. Accordingly, the instant application file is entitled to a filing date of April 29, 2003, and has been so accorded.

The petition is granted.

This matter is being referred to Technology Center AU 1651 for Examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: USPTO's USPS Express Mail Information Database

USPTO's USPS Express Mail Information Database

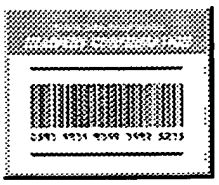
EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Express Mail Number: **EV119099680US**

Origin ZIP: 78701

Weight: 01 lbs 01 ozs

Postage Paid: $017.85



Date and Time* Package was accepted by USPS:	04/29/2003	06:48 pm
Attempted Delivery Date and Time:	//	
Actual Delivery Date and Time:	04/30/2003	11:13 am

***Also referred to as "Date In"**

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Friday, February 04, 2005 01:30 PM

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Ravi Kumar Arimilli	: DECISION ON REQUEST FOR
Patent Number	: 7617378	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/425,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501

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OFFICE OF PETITIONS

In re Application of :
Chun Christine Dong et al. :
Application No. 10/425,405 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket Number: 06400USA :

This is a decision on the petition to refund fees for extension of time, pursuant to 37 CFR 1.26 or in the alternative under 37 CFR 1.181(a).

The petition is **DISMISSED**.

Petitioner contends that the response to the action mailed October 20, 2006, entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment," with a four month extension of time request was caused by the Examiner's delay in sending the action entitled "Failure to Acceptably Respond to Notice of Non-Compliant Amendment". Petitioner argues that if the action mailed October 20, 2006 had been mailed in a tmely manner, petitioner would not have had to request an extension of time for filing the response and would not have incurred the expense in the amount of $1,590.00 for the extension of time. .

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive.

Petitioner's contention that the Examiner caused or contributed delay and additional fees is not well taken. It is the applicant's responsibility to take the necessary action in an application to provide a complete, proper and compliant reply to any office action mailed. The fact that the examiner may not have an opportunity to review responses does not relieve applicant of the responsibility to submit a complete, proper and compliant reply in a timely manner.

Extensions of time are permitted to allow an applicant to timely respond to office actions and as petitioner has requested a four month extension of time in this matter which will protect the petitioner's application from becoming abandoned, the fees in the amount of $1,590.00 cannot be refunded.

This matter is being referred back to Technology Center 1763 for further examination.

Telephone inquiries related to 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 8, 2006

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/425457 Patent No.: 6,844,060

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: The changes to column 8, line 32 does not apply - cannot be located.

SPE

1774
Art Unit

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Paper No. 4

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JAN 15 2004

OFFICE OF PETITIONS

In re Application of :
Eldada and Peer :
Application No. 10/425,476 :
Filed: April 29, 2003 :
For: EFFECTIVE REFRACTIVE INDEX :
CHIRPED BRAGG GRATINGS :

DECISION REFUSING
STATUS UNDER
37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 11, 2003. Applicants obtained a four-month extension to reply. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 29, 2003, without an oath or declaration. On June 23, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on December 11, 2003, applicants filed the present petition with a request for a four-month extension of time. In the present petition, Barbara C. Siegell, attorney for applicants, asserts that several attempts were made to reach the nonsigning inventor, Aaron Peer at 7231 Avalon Drive, Wilmington, MA 01887.

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. Applicants lacks item (1) as set forth above.

As to item (1), it is unclear whether applicants are arguing that they are unable to locate the non-signing inventor or that the inventor has refused to sign the declaration.

Initially, the Office notes that applicants have failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicants should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search.

However, if applicants are asserting that the inventor refuses to sign the declaration, applicants have failed to support this assertion. Unless inventor Peer was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers." Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, was presented to inventor Peer and that he did not respond to the request that he sign the declaration.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Senior Petitions Attorney Christina Tartera Donnell:

By mail: Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Eldada and Peer :
Application No. 10/425,476 : DECISION REFUSING STATUS
Filed: 29 April, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. FO6719USNA :
:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 15 March, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified issue application was filed on 29 April, 2003, without an executed oath or declaration. Accordingly, on 23 June, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. In response, on 11 December, 2003, petitioners filed the a petition under 37 CFR 1.47(a). That petition was dismissed on 15 January, 2004.

In the present renewed petition, petitioners again assert that attempts have been made to contact the non-signing inventor, Aaron Peer, at his last known address. Petitioners have also provided printouts showing attempts to locate another address for non-signing inventor Peer.

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).

The petition is again dismissed because petitioners have neither shown that Peer cannot be found nor that he refuses to sign the declaration after having been presented with a copy of the application papers.

Since petitioners have an address for the non-signing inventor, it is suggested that petitioners **send or give a copy of the application papers to Peer at his last known address.** Petitioners should provide proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must provide proof that the inventors have refused to sign the declaration.[2] If there is a written refusal, petitioners should 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 facts.

If application papers sent to the non-signing inventor at his last known address are returned as undeliverable, petitioners may show proof that diligent efforts have been made to locate the non-signing inventor(s) by providing a copy of an envelope

---

[1] MPEP 409.03(d).

[2] Id.

showing that a letter sent to the last known address of the non-singing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, if an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration. If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

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

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Paper No. 10

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION AND
Eldada and Peer	: DECISION NOTING JOINDER
Application No. 10/425,476	: OF INVENTOR AND PETITION
Filed: 29 April, 2003	: UNDER 37 CFR 1.47(a) MOOT
Atty Docket No. FO6719USNA	:

This is a decision on the petition filed on 30 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application, which is also treated as a renewed petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 27 May, 2004, for failure to timely file a reply to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on 26 March, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 December, 2004.

The present petition to revive is accompanied by a declaration under 37 CFR 1.63 signed by the previously non-signing inventor, Aaron Peer. As petitioners have filed a proper reply to the Decision mailed on 26 March, 2004, the petition under 37 CFR 1.137(b) is granted.

PETITION UNDER 37 CFR 1.47(a)

Papers filed on 30 September, 2005, in response to the decision dismissing petition mailed on 26 March, 2004, included a Declaration signed by the previously non-signing inventor, Aaron Peer, 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 referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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MAR 24 2008

In re Application of :
Wilman Tsai :
Application Number: 10/425511 : DECISION ON PETITION
Filing Date: 04/28/2003 :
Attorney Docket Number: :
42P15043 :

This is a decision on the petition filed on February 19, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 10, 2007, for failure to timely reply to the final Office action mailed on April 9, 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 November 19, 2007.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the Request for Continued Examination (RCE) and amendment as the submission under 37 CFR 1.114 filed on February 19, 2008, is acknowledged.

The application is being referred to Technology Center Art Unit 2815 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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SEP 13 2005

OFFICE OF PETITIONS

Applicant: Vaartstra et al.
Appl. No.: 10/425,514
Filing Date: April 29, 2003
Title: SYSTEMS AND METHODS FOR FORMING METAL OXIDE LAYERS
Attorney Docket No.: 150.01390101
Pub. No.: US 2004/0219746 A1
Pub. Date: November 4, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on December 9, 2004, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains numerous material errors such as the phrase in independent claim 10, "at least one source of ozone" is misprinted as "at least one Source of ozone", dependent claim 106 "vapor comprising" is misprinted as vapor-comprising" and in dependent claim 69 "a (C_1-C_8) alkyl moiety" is misprinted as "a (C1-C8) alkyl moiety."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor wherein the phrase in independent claim 10, "at least one source of ozone" is misprinted as "at least one Source of ozone", dependent claim 106 "vapor comprising" is misprinted as vapor-comprising" and in dependent claim 69 "a (C_1-C_8) alkyl moiety" is misprinted as "a (C1-C8) alkyl moiety" are Office errors but the mistakes are minor typographical errors, which are clearly understandable to one of ordinary skill in reading the specification and the claims. The mistakes are minor typographical errors, which are clearly understandable from reading the claims in which the phrases are used, as terms are not read in a vacuum. The mistakes do 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

[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).

determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error with respect to "vapor comprising" in this published application may be due in part to the poor quality of the text in the faxed amendment. While the text is legible, the text is not clear, as there are many stray marking on the pages. Applicant is advised that he or she may want to file application papers that are clearer, as the error may be due to the quality of the text.

Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Ismail Cem Paya	: DECISION ON REQUEST FOR
Patent Number	: 7634570	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/425,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 05/18/2010

Applicant : Ismail Cem Paya
Patent Number : 7634570
Issue Date : 12/15/2009
Application No: 10/425,516
Filed : 04/29/2003

: 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 **983** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Makower et al. :
Application No.: 10/425,543 :
Filing Date: April 29, 2003 :
Docket No.: TRNSV-001G2 :
For: Methods And Apparatus For By-passing Arterial Obstructions And/Or Performing Other Transvascular... :

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on June 5, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner, in reply to the Notice of Allowance mailed May 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August 14, 2004. A Notice of Abandonment was mailed on March 2, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee and Publication Fee (if required), paid the petition fee and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JAN 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Sudhir Srinivasan, Steven A. :
Orszag and Philip Eric Jackson : DECISION GRANTING PETITION
Application No. 10/425,550 : UNDER 37 CFR 1.47(a)
Filed: April 29, 2003 :
Title: STORAGE ALLOCATION IN A
DISTRIBUTED SEGMENTED FILE
SYSTEM

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 19, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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PHILIP ERIC JACKSON
105 LOUISA STREET
BLACK MOUNTAIN, NC 28711

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JAN 14 2004

OFFICE OF PETITIONS

In re Application of
Sudhir Srinivasan, Steven A. Orszag
and Philip Eric Jackson
Application No. 10/425,550
Filed: April 29, 2003
Title: STORAGE ALLOCATION IN A DISTRIBUTED SEGMENTED FILE SYSTEM

Dear PHILIP ERIC JACKSON:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of :
Sudhir Srinivasan et al. :
Application No. 10/425,550 : DECISION ON PETITION
Filed: April 29, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 26680-027 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing dates.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 2166 for appropriate action on the amendment submitted March 1, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

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OFFICE OF PETITIONS

In re Application of :
Jose De Jesus De La Fuente et al :
Application No. 10/425,563 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 57338/03-354 :

This is a decision on the petition, filed January 31, 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 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1652 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

Mail Date: 06/10/2010

Applicant	: Hilliard B. Siegel	: DECISION ON REQUEST FOR
Patent Number	: 7660738	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/425,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 6

Francis A. Cooch, Esq., Office of Patent Counsel
The Johns Hopkins University
Applied Physics Laboratory
11100 Johns Hopkins Road
Laurel, MD 20723-6099

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
David A. Kitchin :
Application No. 10/425,580 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 1822-0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 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** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, 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 (2) noted above.

Petitioner has not tendered the required $665 petition fee (see attached). The merits of the petition cannot be addressed until the petition fee is received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
220 20th Street
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Petition received in USPTO on September 9, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Francis A. Cooch, Esq., Office of Patent Counsel
The Johns Hopkins University
Applied Physics Laboratory
11100 Johns Hopkins Road
Laurel, MD 20723-6099

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NOV 12 2004

OFFICE OF PETITIONS

In re Application of	:	
David A. Kitchin	:	
Application No. 10/425,580	:	ON PETITION
Filed: April 29, 2003	:	
Attorney Docket No. 1822-0001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

NOV 4 2004

STAAS & HALSEY LLP
1201 New York Avenue, N.W.
Suite 700
Washington, DC 20005

In re Application of:
BAEK *et al.*
Serial No.: 10/425,641
Filed: April 30, 2003
Attorney Docket No.: **1349.1169**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed May 04, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on November 24, 2003. A Notice of Abandonment was mailed on March 26, 2004.

Petitioner asserts that the Notice of Allowance mailed on November 24, 2003, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notice of Allowance was not received. A copy of the file docket where the Notice of Allowance would have been entered was also included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is accompanied by a showing that establishes non-receipt of the Notice of Allowance mailed November 24, 2003. As such, the petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notice of Allowability and a Notice of Allowance and Issue Fee Due. The shortened statutory periods for response set therein will be reset to run from the date the Notices are re-mailed. Extensions of time for these periods are not available. See 37 C.F.R. § 1.136(c), effective November 07, 2000.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Carlos R. Villamar
Nixon Peabody LLP
401 9th Street N.W.
Suite 900
Washington, D.C. 20004-2128

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JUN 23 2007

Technology Center 2100

In re Application of:
Michael Raley, et al.
Application No. 10/425,645
Filed: April 30, 2003
For: Method and Apparatus for Sharing Secure Communications

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed September 1, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require Consideration of the Information Disclosure Statement Submitted April 20, 2003.

On filed September 1, 2006, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed May 1, 2006. In the petition, applicant's counsel alleged that the non-consideration of the references in the Information Disclosure Statement is improper and that the references must be considered.

A review of the record indicates that the information disclosure statement complies with the requirements of 37 CFR 1.97 & 1.98 and therefore the references must be considered.

Accordingly, the petition is **Granted.**

The application is currently awaiting the examiner's action to an amendment filed May 15th, 2007 and the considered Information Disclosure Statement will be included with the next office action.

Any inquiry concerning this decision should be directed to Tod Swann whose telephone number is (571) 272-3612.

James Dwyer
Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paper No. 042704

Peter T. Eaton
Christopher T. Johnson
850 Kinderton Rd.
Clarksville, VA 23927

MAY - 5 2004

In re Application of:	:	
EATON *et al.*	:	DECISION ON PETITION
Serial No.: 10/425,657	:	TO MAKE SPECIAL
Filed: April 30, 2003	:	
For: **MAGNETIC FIELD POWER CONVERTER**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 22, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age, Section V: Environmental Quality and Section VI: Energy.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicants stating that Peter Eaton is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

The requests under Sections V and VI are moot in view of the above decision.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Patent No. 6,863,166 :
Issue Date: March 8, 2005 :
Application No. 10/425,667 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 0526-1070 :
For: CLONE CLUTCH MECHANISM

This is a decision on the petition under 37 CFR 1.182, filed May 1, 2006, requesting issuance of duplicate Letters Patent for the above-identified application due to loss of the original Letters Patent.

The petition is **granted**.

Petitioner has paid $130.00. The current Rule 182 fee is $400.00. Deposit account will be charged the $270.00 balance due.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, extension 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: **Krystal Paige, South Tower, 8th Floor**
Room C-32
Fax - (571) 270-9937
Phone - (703) 308-9250 x 139

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BLACKSTONE & MARR, LTD.
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CHICAGO IL 60603

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OFFICE OF PETITIONS

In re Application of	:	
Wojick et al.	:	
Application No. 10/425,687	:	ON PETITION
Filed: 29 April, 2003	:	
Atty Docket No. 2098/40861/1	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on 2 December, 2004, which is first treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition to withdraw the holding of abandonment," or as

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 28 July, 2004, for failure to file a timely reply to the final Office action mailed on 27 April, 2004, a final Office action was mailed, setting 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 26 November, 2004.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT.

Petitioners assert that a reply was timely filed. In support, petitioners have provided a copy of a Request for Continued Examination (RCE) Transmittal and an amendment referencing the RCE, which petitioners state were both filed on 26 July, 2004, but subsequently lost in the Office. The RCE Transmittal, which references the amendment, contains a Certificate of Mailing or Transmission dated 26 July, 2004, signed by Jackie Mitchell-Ledajaks. The amendment referencing the RCE request contains a Certificate of Facsimile Transmission dated 26 July, 2004, signed by registered patent attorney David J. Marr. Additionally, petitioners have included a copy of the sending unit's facsimile transmission report showing the RCE and amendment were transmitted to facsimile number 703-746-3688, as referenced in the petition.

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 Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the 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 must be dismissed because the showing of record is that the response petitioners attempted to file on 26 July, 2004, was not sent to the proper facsimile number. It is noted that the Office action mailed on 27 April, 2004, states that the facsimile number for the organization where the application is assigned is 703-872-9306. Further, the undersigned petitions attorney confirmed with the examiner that the correct facsimile number for relevant Technology Center Art Unit is 703-872-9306. As petitioner's reply was not sent to 703-872-9306, but rather to 703-746-3688, the showing of record suggests that the reply transmitted on 26 July, 2004, may not be have been received in the USPTO because it was not sent to the proper facsimile number.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

---

[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

As stated above, the showing of record is that the reply which petitioners attempted to file on 26 July, 2004, was not sent to the proper facsimile number. Petitioners have not explained why the reply was not sent to the facsimile number for reply which was listed in the Office action mailed on 27 April, 2004, nor explained why the 703-746-3688 number was utilized. Any renewed petition under 37 CFR 1.137(a) must address these deficiencies.

In summary, the showing of record is that the reply petitioners attempted to file on 26 July, 2004, was not received due to the failure of petitioners to send said reply to the correct facsimile number as listed in the Office action mailed 26 April, 2004. While such an error may be inadvertent, said error, in and of itself, does not rise to the level of unavoidable delay. The petition will therefore be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a

Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

As the holding of abandonment cannot be withdrawn, and this petition has been considered under 37 CFR 1.137(a), the petition fee $55.00 is due and will be charged to counsel's deposit account, No. 20-1495.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703)872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

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CHICAGO IL 60603

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OFFICE OF PETITIONS

In re Application of :
Wojcik et al. :
Application No. 10/425,687 : DECISION ON PETITION
Filed: 29 April, 2003 :
Atty Docket No. 2098/40861/1 :

This is a decision on the petition filed on 18 March, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 28 July, 2004, for failure to file a timely reply to the final Office action mailed on 27 April, 2004, a final Office action was mailed, setting 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 26 November, 2004. The petition under 37 CFR 1.137(a) filed on 2 December, 2004, was dismissed on 4 March, 2005.

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being referred to Technology Center Art Unit 3644 for processing of the RCE and submission filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Wojcik et al. :
Application No. 10/425,687 : DECISION ON PETITION
Filed: 29 April, 2003 :
Atty Docket No. 2098/40861/1 :

This is a decision on the petition filed on 18 March, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 28 July, 2004, for failure to file a timely reply to the final Office action mailed on 27 April, 2004, a final Office action was mailed, setting 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 26 November, 2004. The petition under 37 CFR 1.137(a) filed on 2 December, 2004, was dismissed on 4 March, 2005.

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is being referred to Technology Center Art Unit 3644 for processing of the RCE and submission filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

JOSEPH H. SMITH
4410 CASA MADEIRA LANE
SAN JOSE, CA 95127

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OFFICE OF PETITIONS

In re Application of :
David G. Boyers :
Application No. 10/425,692 : ON PETITION
Filed: April 28, 2003 :
Attorney Docket No. 030428 PA :

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 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 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 on August 26, 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 (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

cc: JOSEPH H. SMITH
P.O. BOX 32057
SAN JOSE, CA 95152

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Patent No. 6,943,542 :
Issue Date: September 13, 2005 :
Application No. 10/425,712 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 925-260 :

This is a decision on the petition filed October 14, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. 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.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004.

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BIRCH STEWART KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
Byung-Jin Kim et al	:	
Application No. 10/425,714	:	DECISION GRANTING PETITION
Filed: April 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2950-0242P	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 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 21, 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 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of :
Anderson, et al. :
Application No. 10/425,717 : DECISION ON PETITIONS
Filed: April 30, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2540-0655 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter and the declaration filed with the application.

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter and declaration filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,370.00 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 (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2616 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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PENNIE & EDMONDS, LLP
1667 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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JUL 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Zhaowei Liu, Zhiyong Guo, :
Qingbo Li and Thomas E. Kane : DECISION GRANTING PETITION
Application No. 10/425,746 : UNDER 37 CFR 1.47(a)
Filed: April 30, 2003 :
Title: SYSTEM AND METHOD FOR DETERMINING THE SIZES AND QUANTITY OF POLYNUCLEOTIDES WITH CAPILLARY ARRAY ELECTROPHORESIS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 30, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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BIRDWELL & JANKE, LLP
SUITE 1400
1100 S.W. SIXTH AVENUE
PORTLAND, OR 97204

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OCT 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Chen Liang et al :
Application No. 10/425,757 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 6121.62031

This is a decision on the petition, filed October 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SAMUEL A. KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE, CA 95120

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of :
Bhattacharjee et al :
Application No. 10/425,760 : DECISION ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. :
CA920020032US1

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 4, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 4, 2006. Accordingly, the date of abandonment of this application is January 5, 2007. A Notice of Abandonment was mailed on March 22, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Walter S. Conard	: DECISION ON REQUEST FOR
Patent Number	: 7663072	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/425,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **35** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

#3

AUG 26 2003

FOLEY & LARDNER
SUITE 500
3000 K STREET, NW
WASHINGTON, D.C. 20007

In re Application of	:
Raymond P. Warrell et al	:
Serial No.: 10/425,785	: PETITION TO MAKE SPECIAL
Filed: April 30, 2003	:
Attorney Docket No.: 077319-0371	:

This is in response to applicants' petition filed August 13, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Barry W. Chapin, esq.
Chapin Intellectual Property Law, LLC
Westborough Office Park
1700 West Park Drive
Westborough MA 01581

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of:
John Bazzinotti
Application No.: 10/425,787
Filed: April 29, 2003
Atty's Docket No.: CIS03-05(6812)

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed November 30, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed August 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on November 18, 2006.

On November 30, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue fee. Accordingly, the issue fee payment is accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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HEWLETT-PACKARD DEVELOPMENT COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
John A. deVos, et al. :
Application No. 10/425,789 : ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 200208976-1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 19, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2876 for further processing of the request for continued examination under 37 CFR 1.114 filed September 19, 2005.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFF D. LIMON
HEWLETT-PACKARD COMPANY
1000 NE CIRCLE BLVD.
CORVALLIS, OR 97330

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OFFICE OF PETITIONS

In re Application of
John A. DeVos, et al.
Application No. 10/425,789
Filed: April 29, 2003
Attorney Docket No. 200208976-1

ON PETITION

CORRECTED DECISION

This is a decision in response to the petition to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(c)(2), filed September 19, 2005.

The petition is **GRANTED**.

Petitioners requested that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

A further review of the record discloses that, although the petition to withdraw from issue had not been acted upon by an appropriate official of the U.S. Patent and Trademark Office (USPTO), the USPTO nevertheless processed the RCE filed September 19, 2005 and issued a new Notice of Allowance on December 5, 2005. Applicant responded to the second Notice of Allowance by paying the issue fee on January 13, 2006. The petition to withdraw from issue was subsequently forwarded to the deciding official for consideration and the application was withdrawn from issue by a decision mailed January 27, 2006.

In view of the above, the decision mailed January 27, 2006, is modified as follows. The petition to withdraw from issue filed September 19, 2005 is being treated as having been granted prior to the mailing, on December 5, 2005, of the second Notice of Allowability and Notice of Allowance and Issue Fee Due. Further, since the issue fee has been timely paid on the second Notice of Allowance and Issue Fee Due, the application is being referred to the Office of Publication for processing as a patent.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding Office of Publication processing should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFF D. LIMON
HEWLETT-PACKARD COMPANY
1000 NE CIRCLE BLVD.
CORVALLIS, OR 97330

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MAIL Paper No. 4

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of :
Mitsuaki OSHIMA, et al. :
Application No. 10/425,796 : DECISION ON PETITION
Filed: April 30, 2003 : TO MAKE SPECIAL
For: DATA PROCESSING APPARATUS :

This is a decision on the petition filed July 29, 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 petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON, DC 20005-1503

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APR 30 2010

OFFICE OF PETITIONS

In re Application of :
Mitsuaki OSHIMA, et *al.* :
Application No. 10/425,796 : DECISION GRANTING PETITION
Filed: April 30, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2003_0605** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 3, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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DEC 02 2005

THE WEBB LAW FIRM
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219
TELEPHONE 412-471-8815
FAX 412-471-4094
E-MAIL webblaw@webblaw.com

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OF COUNSEL
DONALD C. LEPIANE

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FREDERICK B. ZIESENHEIM (1958-2004)

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GWENDOLYN R. ACKER WOOD
CRAIG M. WALLER

PATENT AGENTS
JAMES J. BOSCO, JR.
RYAN J. MILLER

FACSIMILE TRANSMITTAL

Page 1 of 2

December 2, 2005

VIA FACSIMILE NO. 571-273-8300

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: United States Patent No. 10/425,803, filed April 29, 2003 entitled "Cooling Garment Made of Water-Resistant Fabric"
Examiner: Tejash Patel
Art Unit: 3765
Our File: 4271-030327

Dear Sir:

A Notice of Abandonment was mailed in connection with the above-captioned application. The Notice of Abandonment was sent on October 5, 2005 for the alleged failure to respond to a restriction requirement dated March 28, 2005.

An Election and a Petition for a One-Month Extension of Time were filed with a Certificate of Mailing on May 11, 2005, in response to the restriction requirement. Attached are copies of these documents, as well as a copy of the returned postcard, that has been stamped as being received on May 13, 2005.

I have spoken to Examiner Patel about this issue. He informs me that the May 11, 2005 Election and Petition have now been scanned into the system.

STATEMENT OF CONFIDENTIALITY

The information in this facsimile is privileged and confidential and is intended only for the use of the named recipient. Disclosure or copying of this document or its contents other than by the named recipient is prohibited. If this document is received in error, it should be returned to sender.

If you do not receive all pages, please call 412-471-8815. Original copy and any enclosures will be sent via regular mail.

In view of the foregoing, it is respectfully requested that the Notice of Abandonment be withdrawn, and the application be reinstated for prosecution.

Respectfully submitted,

THE WEBB LAW FIRM

By: _____

Kent E. Baldauf, Jr.
Registration No. 36,082
Attorney for Applicants
700 Koppers building
436 Seventh Avenue
Pittsburgh, PA 15219-1845
Telephone: 412-471-8815
Facsimile: 412-471-4094

KEBjr:rmd
Attachment

The dating stamp of the Patent Office on this card will be taken as an indication that the accompanying paper was filed.

Applicants: Robert P. Lazar et al.

Appl. No. 10/425,803

Paper dated 05-11-2005

Atty's File No. 4271-030327

Amount of Check $60.00

KEBjr/mw

In re Patent Application entitled "Cooling Garment Made of Water-Resistant Fabric"

Enclosures:
Transmittal Form (1 pg.);
Election (2 pgs.);
Petition for Extension of Time (1 pg., in dup.);
and check for $60.00 (extension of time fee).

The dating stamp of the Patent Office on this card will be taken as an indication that the accompanying paper was filed.

Applicants: Robert P. Lazar et al.

Appl. No. 10/425,803

Paper dated 05-11-2005

Atty's File No. 4271-030327

Amount of Check $60.00

KEBjr/mw

In re Patent Application entitled "Cooling Garment Made of Water-Resistant Fabric"

Enclosures:
Transmittal Form (1 pg.);
Election (2 pgs.);
Petition for Extension of Time (1 pg., in dup.);
and check for $60.00 (extension of time fee).

OIPE
MAY 13 2005
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PTO/SB/21 (04-04)
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.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		
	Application Number	10/425,803
	Filing Date	April 29, 2003
	First Named Inventor	Robert P. Lazar et al.
	Art Unit	3765
	Examiner Name	Tejash Patel
Total Number of Pages in This Submission	Attorney Docket Number	4271-030327

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☒ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Documents
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)_____
- ☐ After Allowance communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) (please identify below)

Election; return receipt postcard; and check for $60.00 (extension of time fee).

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Kent E. Baldauf, Jr. The Webb Law Firm
Signature	
Date	May 11, 2005

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Melissa A. Wyke		
Signature	Melissa A. Wyke	Date	05-11-2005

This collection of information is required by 37 CFR 1.5. 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 2 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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this 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

Edward Appleton Gaylor
265 Long Hill Rd.
Little Falls NJ 07424

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Edward Appleton Gaylor :
Application No.: 10/425812 : DECISION
Filed: 04/29/2003 : ON PETITION
Title of Invention: HARDWAY :

This is a decision on the Petition Under 37 CFR 1.137(b), to revive an application abandoned unintentionally, filed on April 27, 2007. The petition is properly treated as a petition to withdraw the holding of abandonment based upon evidence that a timely reply was filed, under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 28, 2006. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on December 29, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action was filed on December 21, 2006 via Express Mail. In support of this assertion, Applicant includes a copy of the reply, which includes express Mail Label No.EB096545188US. Applicant also files a copy of his Express Mail Label, No.: EB096545188US, wherein the "Date-In" is December 21, 2006.

Analysis

A review of Office records reveals that Applicant re-filed application papers, including a specification, claims, abstract and drawings, and therein included an amendment in response to the Office action. The application papers were inadvertently processed as a new application. The application papers, including the amendment, have been filed in the present application.

Conclusion

In view of the foregoing, the holding of abandonment is hereby withdrawn.

A refund of the petition fee has been scheduled via Treasury Check.

The application will be referred to Technology Center Art Unit 3714 for processing of the reply, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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DW 09-03

Paper No. 4

HARNESS DICKEY & PIERCE P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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SEP 16 2003
OFFICE OF PETITIONS

In re Application of :
William Fairweather :
Application No. 10/425,826 : ON PETITION
Filed: 30 April, 2003 :
Atty's Dkt No. 58140-000001/US :

This is a decision on the petition filed on 15 July, 2003, requesting that the above-identified application be accorded a filing date of 30 April, 2003, with Figures 6 & 7 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 30 April, 2003. However, on 18 June, 2003, Initial Patent Examination Division mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date but that Figures 6 & 7 described in the specification appeared to have been omitted.

In response, on 15 July, 2003, petitioners filed a copy of two (2) sheets of drawings containing Figures 6 & 7, respectively, and the present petition. Petitioners argue that Figures 6 & 7 of the drawings were filed with the other application papers on 30 April, 2003, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office).

The two (2) sheets of drawings containing Figures 6 and 7 have been located among the application papers deposited on 30 April, 2003. Apparently, the pages were not recognized as drawings sheets. Therefore, the application, including Figures 6 & 7 of the drawings, is entitled to a filing date of 30 April, 2003.

The "Notice" mailed on 18 June, 2003, is vacated to the extent that it stated that Figures 6 & 7 described in the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 08-0750.

The application will be processed using the application papers, including the two sheets of drawings containing Figures 6 & 7 filed on 30 April, 2003. The copy of two (2) sheets of drawings containing Figures 6 & 7 supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Receipt is acknowledged of the replacement drawings filed on 15 July, 2003. The replacement drawings are not part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 30 April, 2003, using the application papers filed on that date, and for an indication in Office records that seven (7) 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

UNITED STATES DEPARTMENT OF COMMERCE
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/21/2010

Applicant	: Michael Raley	: DECISION ON REQUEST FOR
Patent Number	: 7603319	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/425,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2006

TO SPE OF : ART UNIT 2673 Patent No.: 6,888,525 Ser.10/425834

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: _____

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SPE

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Art Unit

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): N. KASAI, et al

Serial No.: 10/425,834

U.S. Patent No: 6,888,525 B2

Issue Date: May 3, 2005

Filed: April 30, 2003

For: MULTIPLE-TONE DISPLAY SYSTEM

Certificate
MAR 13 2006
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 CFR 1.323

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 9, 2006

Sir:

Pursuant to 35 USC §255 and 37 CFR 1.323, Applicants respectfully request that a Certificate of Correction be issued in connection with the above-referenced application to correct the error noted on the attached Form PTO-1050.

Specifically, Applicants submit that in each of independent claims 1, 12-15, 27-35 and 37 a minor correction is necessary to correct minor grammatical errors so as to improve the language in the claims to fully apprise the public of the meets and bounds of the invention.

In each of the independent claims, amendments are being made to the description of the display panel such that the display panel is recited as"having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver".

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The above described amendment is necessary in each of the independent claims so that it is clear that the phrase beginning with "the display panel" following the comma after the term "matrix" describes further details regarding the display panel. Further, the article "is" is necessary between the term "panel" and the term "coupled" so that it is clear that the panel is coupled to the data driver and to the scan driver.

The above described mistake in each of the independent claims is minor in character and occurred in good faith without any intent to deceive the Examiner or the public as to the meets and bounds of the invention on the part of the Applicants. Applicants submit that correction of the mistake as set forth above does not involve any changes in the patent that would constitute new matter or require re-examination.

Thus, the present Request for Certificate of Correction complies with the requirements of 35 USC §255 and 37 CFR §1.323. Therefore, entry of the Request for Certificate of Correction is respectfully requested.

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Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (566.31929CC8).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

Carl I. Brundidge
Registration No. 29,621

CIB/jdc
(703) 684-1120

2006

PTO/SB/44 (02-01)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. (Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,888,525 B2

DATED: May 3, 2005

INVENTOR(s): Naruhiko KASAI, et al

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

IN THE CLAIMS:

Please amend the independent claims 1, 12-15 and 27-35 and 37 as follows:

-- 1. (currently amended) A display device; for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage from the data driver to a pixel of the display panel selected in accordance with the selecting voltage,

wherein selected pixel of the display panel displays a tone corresponding to the drive voltage,

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wherein the number of tones is equal to or more than eight, and

wherein the intensities or brightnesses of all the intermediate tones between the first tone corresponding to the maximum drive voltage and the third tone one higher than the second tone corresponding to the minimum drive voltage are at least as great as the intensities or brightnesses on a straight line linking the intensity or brightness of the first tone and the intensity or brightness of the third tone, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensity or brightness on a logarithmic scale along the graph ordinate.

12. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data, and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage from the data driver to a pixel of the display panel selected in accordance with the selecting voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to or more than eight, and

wherein intensities or brightnesses of all the intermediate tones between the

maximum intensity or brightness and the intensity or brightness one higher than the minimum intensity or brightness which the display panel is capable of showing are greater than the intensities or brightnesses on a straight line linking the maximum intensity or brightness and the intensity or brightness one higher than the minimum intensity or brightness, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

13. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data and providing drive voltages of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltages to a line of pixels of the display panel selected in accordance with the selecting voltage,

wherein the selected line of pixels of the display panel displays tones corresponding to the drive voltages,

wherein the number of tones is equal to or more than eight, and

wherein intensities or brightnesses of all the intermediate tones between the first tone corresponding to the maximum drive voltage and the third tone one higher than the second tone corresponding to the minimum drive voltage form a line above

a straight line linking the intensity or brightness of the first tone and the intensity or brightness of the third tone on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

14. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data, and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage to a pixel of the display panel selected in accordance with the selecting voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to more than eight, and

wherein all the intensities or brightnesses between the maximum intensity or brightness and the intensity or brightness one higher than the minimum intensity or brightness which the display panel is capable of showing are greater than the intensities or brightnesses on a straight line linking the maximum intensity or brightness and the intensity or brightness one higher than the minimum intensity or brightness, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensities or

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brightnesses on a logarithmic scale along the graph ordinate.

15. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage from the data driver to a pixel of the display panel selected in accordance with the selecting voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to or more than eight, and

wherein the intensities or brightnesses of all the intermediate tones between the third tone one lower than the first tone corresponding to the maximum drive voltage and the second tone corresponding to the minimum drive voltage are at least as great as the intensities or brightnesses on a straight line linking the intensity or brightness of the third tone and the intensity or brightness of the second tone, when the intensities or brightness as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensity or brightness on a logarithmic scale along the graph ordinate.

27. (currently amended) A display device for providing a multiple-tone representations, the display device comprising:

a data driver for receiving display data, and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage from the data driver to a pixel of the display panel selected in accordance with the selecting voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to or more than eight, and

wherein the intensities or brightnesses of all the intermediate tones between the intensity or brighteness one lower than the maximum intensity or brightness and the minimum intensity or brightness which the display panel is capable of showing are greater than the intensities or brightnesses on a straight line linking the intensity or brightness one lower than the maximum intensity or brightness and the minimum intensity or brightness, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

28. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

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a data driver for receiving display data and providing drive voltages of a level corresponding with the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltages to a line of pixels of the display panel selected in accordance with the selecting voltage,

wherein the selected line of pixels of the display panel displays tones corresponding to the drive voltages,

wherein the number of tones is equal to or more than eight, and

wherein the intensities or brightnesses of all the intermediate tones between the third tone one lower than the first tone corresponding to the maximum drive voltage and the second tone corresponding to the minimum drive voltage form a line above a straight line linking the intensity or brightness of the third tone and the intensity or brightness of the second tone on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

29. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data, and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the

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display panel is coupled to the data driver and to the scan driver to provide the drive voltage to a pixel of the display panel selected in accordance with the selecting voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to or more than eight, and

wherein all the intensities or brightnesses between the intensity or brightness one lower than the maximum intensity or brightness and the minimum intensity or brightness which the display panel is capable of showing are greater than the intensities or brightnesses on a straight line linking the intensity or brightness one lower than the maximum intensity or brightness and the minimum intensity or brightness, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

30. (currently amended) A display device for providing multiple-tone representations, the display device comprising:

a data driver for receiving display data, and providing a drive voltage of a level corresponding to the display data;

a scan driver for providing a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein the display panel is coupled to the data driver and to the scan driver to provide the drive voltage to a pixel of the display panel selected in accordance with the selecting

voltage,

wherein the selected pixel of the display panel displays a tone corresponding to the drive voltage,

wherein the number of tones is equal to or more than eight, and

wherein all the intensities or brightnesses between the intensity or brightness one lower than the maximum intensity or brightness and the minimum intensity or brightness which the display panel is capable of showing are greater than the intensities or brightnesses on a straight line linking the intensity or brightness one lower than the maximum intensity or brightness and the minimum intensity or brightness, when the intensities or brightnesses as a function of the tones are plotted on a graph having the tones along the graph abscissa and the intensities or brightnesses on a logarithmic scale along the graph ordinate.

31. (currently amended) A display device which performs multiple-tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said

display panel is coupled to said data driver and said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein the plurality of tones is equal to or more than eight tones, and wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the first tone of maximum drive voltage and the third tone which is one higher than the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said first tone and the intensity or brightness of said third tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and the graph ordinate representing intensity or brightnesses on a logarithmic scale.

32. (currently amended) A display device which performs multiple-tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said display panel is coupled to said data driver and said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein the plurality of tones is equal to or more than eight tones, and

wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the third tone which is one lower than the first tone of maximum drive voltage and the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said third tone and the intensity or brightness of said second tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and the graph ordinate representing intensities or brightnesses on a logarithmic scale.

33. (currently amended) A display device for providing multiple-tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said display panel is coupled to said data driver and said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein, when said display data is N bit data, the number of tones is 2^N,

wherein N is equal to or more than three, and

wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the first tone of maximum drive voltage and the third tone which is (N - 2) higher than the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said first tone and the intensity or brightness of said third tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and graph ordinate representing intensities or brightnesses on a logarithmic scale.

34. (currently amended) A display device for providing multiple-tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive

voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said display panel is coupled to said data driver and said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein, when said display data is N bit data, the number of tones is 2^N,

wherein N is equal to or more than three, and

wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the third tone which is (N - 2) the first tone of maximum drive voltage and the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said third tone whose and the intensity or brightness of said second tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and the graph ordinate representing intensities or brightnesses on a logarithmic scale.

35. (currently amended) A display device for providing multiple-tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said display panel is coupled to said data driver arid said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein, when said display data is N bit data, the number of tones is 2^N,

wherein N is equal to or more than three,

wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the first tone of maximum drive voltage and the third tone which is (N - 2) higher than the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said first tone and the intensity or brightness of said third tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and the graph ordinate representing intensity or brightness on a logarithmic scale, and

wherein differences between two drive voltages of adjacent two tones are non-uniform.

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37. (currently amended) A display device for providing multiple tone representations, said display device comprising:

a voltage generator which generates a plurality of drive voltages corresponding to a respective plurality of tones;

a data driver which receives display data, selects a drive voltage of a level corresponding to the received display data from among the plurality of drive voltages, and outputs the selected drive voltage of a level corresponding to the received display data;

a scan driver which outputs a selecting voltage; and

a display panel having a plurality of pixels arranged in a matrix, wherein said display panel is coupled to said data driver and said scan driver and providing the drive voltage outputted from said data driver to a pixel selected from among the plurality of pixels in accordance with the selecting voltage outputted from said scan driver,

wherein, when said display data is N bit data, the number of tones is 2^N,

wherein N is equal to or more than three,

wherein said voltage generator generates said plurality of drive voltages such that the intensity or brightness of each intermediate tone between the third tone which is (N - 2) lower than the first one of maximum drive voltage and the second tone of minimum drive voltage is above a straight line linking the intensity or brightness of said third tone maximum and the intensity or brightness of said second tone on a graph on which intensities or brightnesses are plotted as a function of the plurality of tones, the graph abscissa representing tones and the graph ordinate

MAR 14 2006

representing intensity or brightness on a logarithmic scale, and

wherein difference between two drive voltages of adjacent two tones are non-uniform.

MAILING ADDRESS OF SENDER

PATENT NO: 6,888,525 B2

Carl I. Brundidge, Esquire
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 Diagonal Road – Suite 370
Alexandria, VA 22314

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

MAR 14 2006

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)
6,717,161	2004-04-06	10/425,835	2003-04-30	866.42593.X00

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	/eha/	Date (YYYY-MM-DD)	2008-09-03
Name	Erika H. Arner	Registration Number	57540

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6717161
Issue Date: April 6,2004
Application No. 10425835
Filed: April 30,2003
Attorney Docket No. 866.42593.X00

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 3,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LSI CORPORATION C/O SUITER SWANTZ PE HO
14301 FNB PARKWAY, SUITE 220
OMAHA NE 68154

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OFFICE OF PETITIONS

In re Application of :
Prashant Singh et al :
Application No. 10/425,842 : DECISION ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. 02-6209 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 5, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received May 4, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON, DC 20006-5403

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In re Application of :
Glenn R. Pilkington et al :
Application No. 10/425,855 : DECISION ON PETITION
Filed: April 30, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. I8602.0007/P007-A :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on April 30, 2003. Intermediate Application No. PCT/US96/14937 filed September 18, 1996, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/003,931, which was filed on September 18, 1995, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim

under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Additionally, it is noted that the instant application was filed April 30, 2003 and that Application Serial No. 09/043,530 became abandoned December 23, 2002 for failure to timely file an Appeal Brief. Accordingly, there is no copendency between the instant application and Application Serial No. 09/043,530.

The issue fee in this case was paid on April 24, 2008. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(6). In such case, submission of a certificate of correction (along with the $100 fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(6).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or an amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-1-07

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 7074299 B2 (10/425856)

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments:

GREGORY MILLS
QUALITY ASSURANCE SPECIALIST

SPE

1722
Art Unit

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Michael G. Petit
P. O. Box 91929
Santa Barbara, CA 93190-1929

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MAY 1 8 2005

OFFICE OF PETITIONS

In re Application of :
James Gregory :
Application No. 10/425,859 :
Filed: April 28, 2003 :
Attorney Docket No. 03GRE1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the "Notice of Non-compliant Amendment" mailed October 12, 2004, which set a shortened period for reply of one (1) month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No extensions of time were obtained within the allowable period, and no response was received within the allowable period. The application became abandoned on November 11, 2004. A Notice of Abandonment was mailed on March 24, 2004.

A grantable petition under 37 CFR 1.137(a)[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(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[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.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] *Nonawarness of a PTO rule will not constitute unavoidable delay*.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts the "Notice of Non-compliant Amendment" was confusing and that petitioner was not able to receive any meaningful guidance from the Office relative to the same.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

As to petitioner's argument that the "Notice of Non-compliant Amendment" was issued in the wrong application as the notice made reference to pages 8, 10, and 11, and the amendment filed only contained nine pages, a review of the record reveals that the specification filed April 28, 2003, contained sixteen pages and that the amendment filed September 24, 2004, requested amendment of pages 8, 10, and 11 of the specification. Barring evidence to the contrary, it does not appear that the "Notice of Non-compliant Amendment was issued in the wrong application. It is more likely that petitioner was not very familiar with the application or with the patent prosecution process (as admitted by petitioner) such that petitioner misunderstood the Notice of Non-compliant Amendment. The Notice of Non-compliant Amendment explicitly stated that a "complete paragraph is needed for pages 8, 10, and 11" and directed petitioner to section 714 of the *Manual of Patent Examining Procedure* (MPEP) for further guidance. Section 714 of the MPE P, referencing 37 CFR 1.121, emphatically states that amendments to the specification must be made by adding, deleting, or replacing a paragraph with one or more replacement paragraphs. A thorough reading of this section of the MPEP and the corresponding rule reveals that the amendment filed on September 24, 2004, was indeed improper in form because it only provided replacement words, not complete paragraphs. It appears that since the filing of the amendment of September 24, 2004, petitioner has reviewed and understood the requirements of 37 CFR 1.121 as the amendments filed March 28, 2005, and April 11, 2005, seem to comply with the form requirements provided in 37 CFR 1.121.

---

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]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 nonawarness 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.

Regretfully, petitioner's lack of knowledge of the requirements of 37 CFR 1.121 cannot be a cause of unavoidable delay. Petitioner is charged with having constructive knowledge of the statutes, rules, and policies that govern the patent prosecution process. Petitioner's unawareness of the requirements of 37 CFR 1.121 cannot, therefore, be considered a cause for unavoidable delay. It is noted that petitioner alleges that several attempts were made to seek clarification from the Office as to how to respond to the "Notice of Non-compliant Amendment" to no avail. While this is regrettable, it does not relieve petitioner of the responsibility of filing a timely and proper response to the Office communication. The facts presented suggest that the delay in filing a timely and proper response "Notice of Non-compliant Amendment" may have been avoided by reviewing 37 CFR 1.121, as directed by the notice, and submitting an amendment that complied with the explicit requirements of 37 CFR 1.121(b)(1). While the delay in responding to the Notice of Non-compliant Amendment may have been unintentional, it was not unavoidable. The petition is dismissed, accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 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.

Petitioner is advised that Ms. Lanna Mai, Supervisory Patent Examiner of GAU 3647, has determined that the amendment filed April 11, 2005, is fully responsive to the "Notice of Non-Compliant Amendment", therefore; a response to the "Notice of Non-Complaint Amendment" need not accompany the renewed petition or petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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Michael G. Petit
PO Box 91929
Santa Barbara, CA 93190-1929

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of

James Gregory

Application No. 10/425,859

Filed: April 28, 2003

Attorney Docket No. 03GRE1

DECISION 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 to the "Notice of Non-compliant Amendment" mailed October 12, 2004, which set a shortened period for reply of one (1) month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No extensions of time were obtained within the allowable period, and no response was received within the allowable period. The application became abandoned on November 11, 2004. A Notice of Abandonment was mailed on March 24, 2004

Ms. Lanna Mai, Supervisory Patent Examiner of GAU 3647, has determined that the amendment filed April 11, 2005, and in duplicate on June 1, 2005, is fully responsive to the "Notice of Non-Compliant Amendment."

The application is being forwarded to Technology Center 3600, GAU 3634 for further processing.

(571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

WENDEROTH, LIND, & PONACK, LLP
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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DEC 23 2004

Technology Center 2100

In re Application of: Oshima et al.
Application No. 10/425,870
Filed: April 30, 2003
For: DATA PROCESSING APPARATUS

DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P.§708.02(VIII)

This is a decision on the petition filed July 29, 2003 and the supplemental petition filed August 19, 2004 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.

Vincent Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

MBS

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Technology Center 2100

In re Application of: Oshima et al.
Application No. 10/425,871
Filed: April 30, 2003
For: DATA PROCESSING APPARATUS

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed July 29, 2003 and the supplemental petition filed August 19, 2004 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.

Vincent Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

MBS

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

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DEC 23 2004

Technology Center 2100

WENDEROTH, LIND, & PONACK, LLP
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

In re Application of: Oshima et al.
Application No. 10/425,878
Filed: April 30, 2003
For: DATA PROCESSING APPARATUS

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed July 29, 2003 and the supplemental petition filed August 19, 2004 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.

Vincent Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

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WENDEROTH LIND & PONACK
SUITE 800
2033 "K" STREET N.W.
WASHINGTON, DC 20006-1021

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JUN 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mitsuaki Oshima et al :
Application No. 10/425,878 :
Filed: April 30, 2003 :
Attorney Docket No. 2003_0607 :

This is a decision on the petition under 37 CFR 1.313(c), filed June 20, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2115 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

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Date : June 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mitsuaki Oshima et al
Application No. : 10/425,878
Filed : April 30, 2003

The above-identified application has been assigned Patent No. 6,915,439 and an issue date of July 5, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 5, 2005:

"All reference to Patent No. 6,915,439 to Mitsuaki Oshima et al of Kyoto-shi, JAPAN for DATA PROCESSING APPARATUS appearing in the Official Gazette of July 5, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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ALEXANDRIA, VA 22313-1450
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Paper No. 13

Christie Parker & Hale LLP
P O Box 7068
Pasadena CA 91109-7068

MAIL

APR 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Yurt, et al. :
Application No. 10/425,893 : DECISION ON PETITION
Filed: April 28, 2003 : TO MAKE SPECIAL
For: AUDIO AND VIDEO TRANSMISSION AND :
RECEIVING SYSTEM :

This is a decision on the petition filed October 27, 2003 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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9-7-06

MEB

In re application of :
Lyon et al. : DECISION ON
Serial No. 10/425,902 : PETITION
Filed: April 29, 2003 :
For: SERVER HAVING A FUEL CELL FOR GENERATING ELECTRICAL POWER

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed January 26, 2006 and made final in the office action mailed May 16, 2006, and to REJOIN THE WITHDRAWN CLAIMS.

Applicant responded to an office action by filing an amendment on December 5, 2005. In the response, Applicant added new claims 30-32. Claims 30-32 are directed to a server while the examined claims are directed to a system for supplying power. The examiner prepared a non-final rejection in which the examiner held that claims 30-32 were directed to an invention that was independent and distinct from the invention originally claimed. The non-final office action was mailed on January 26, 2006.

On April 25, 2006, Applicant argued against the restriction requirement and requested reconsideration. The restriction requirement was made final in the office action dated May 16, 2006.

On August 14, 2006, the instant petition was filed to formally request the withdrawal of the restriction requirement and the rejoinder of claims 30-32.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct. Specifically, Applicant asserts that although the preamble of claim 1 recites a "system for supplying power", it is noted that the body of claim 1 relates to a component of a server, an electrical module located within the server, a fuel cell located within the server, and an electrical bus located within the server. Similarly, withdrawn Claim 30 and 31 also recite these limitations.

DECISION

Sections 803 and 806.05(c) of the MPEP states:

803 Restriction - When Proper

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(c) [R-3] Criteria of Distinctness Between Combination and Subcombination

To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a serious search burden as evidenced by separate classification, status, or field of search. See MPEP § 808.02.
The inventions are distinct if it can be shown that a combination as claimed:
(A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and
(B) the subcombination can be shown to have utility either by itself or in another materially different combination.
When these factors cannot be shown, such inventions are not distinct.

In the January 26, 2006 office action, the examiner states that "the restriction by original presentation is treating the two separate, distinct and independent inventions as being related as combination and subcombination. Principally, the combination (i.e. the system) does not require the particulars of the subcombination because a system for supplying power can be effectively operated without being connected, electrically or mechanically, to a server, that is to say, the power supply system can be use independently from the server; and the subcombination (i.e. the server) has a separate utility which is to provide computer network interconnection." The Petitioner argues that although the preamble of claim 1 recites a "system for supplying power", it is noted that the body of claim 1 relates to a component of a server, an electrical module located within the server, a fuel cell located within the server, and an electrical bus located within the server. Similarly, withdrawn Claim 30 and 31 also recite these limitations. This argument is persuasive. It is further noted that the examiner's reasoning as to why the claims are independent and distinct are not proper. The analysis set forth above in Section 806.05(c) is required to show distinctness and the examiner has not shown the proper criteria for distinctness. Specifically, the only claimed distinction between the claim groupings is the preamble of "a system for supplying power" and "a server", otherwise the scope of the claims is substantially the same. Therefore, the examiner has not shown that the claimed invention of claims 30-32 are separate, distinct and independent from the examined claims.

Additionally, the examiner has not established that any serious burden exists to examine all of the claims as required in Section 803 of the MPEP. The lack of a burden is further evidenced by the fact that the examiner has previously examined claims covering the same general classification of subject matter as that which was presented in newly added claims 30-32.

Accordingly, because the examiner has not shown distinctness between the groups of claims and because no undue burden of search has been shown, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new office action which includes examination and action on the merits of the claim previously withdrawn from consideration due to the restriction requirement.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Dan C. Hu
TROP, PRUNER & HU, P.C.
1616 South Voss Road
Suite 750
Houston, TX 77057-2631

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Paper No. 081204

AUG 27 2004

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NOETH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

In re Application of:
KENG L. WONG et al.
Serial No.: 10/425,914
Filed: April 30, 2003
Attorney Docket No.: **219.42295X00**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 23, 2003.

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 Blakely, Sokoloff, Taylor & Zafman LLP was filed on July 28, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: EDWARD H. TAYLOR
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Adrian Price	: DECISION ON REQUEST FOR
Patent Number	: 7650397	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/425,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 21 2005

Richard L. Chinn, Ph.D.
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

MAILED

JAN 21 2005

OFFICE OF THE DIRECTOR
TC 3600

In re Application of:
Nobuhiro WATANABE et al.
Application No. 10/425,958
Filed: April 30, 2003
Attorney Docket No. 237221US0X

DECISION ON PETITION
UNDER 37 CFR 1.181

This is in response to the petition filed on November 1, 2004 under 37 CFR 1.181 requesting the Office to invoke the supervisory authority of the Commissioner to indicate that the Information Disclosure Statement filed on April 30, 2003 has been considered.

The petition includes a copy of the Information Disclosure Statement filed April 30, 2003, a copy of the date-stamped filing receipt identifying the above Attorney Docket No. and a copy of JP 09-123769 with English Abstract. This is acceptable evidence of a proper filing of an Information Disclosure Statement.

Therefore, the record reveals an inadvertent error occurred.

The petition is GRANTED.

The application is being forwarded to the Examiner for consideration of the Information Disclosure Statement.

Telephone inquiries should be directed to D. Glenn Dayoan, Supervisory Patent Examiner, at (703) 308-3102.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

RJO:dgd: 1/13/05

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JUL 28 2004

CELERA GENOMICS CORPORATION
45 WEST GUDE DRIVE
C2-4#20
ROCKVILLE, MD 20850

In re Application of:
Guegler et al.
Serial No.: 10/425,962
Filed: April 30, 2003
Attorney Docket No.: CL000636-DIV2

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181 filed on May 27, 2004, requesting withdrawal of the holding of abandonment based on the Office's non-receipt of a faxed reply to an Office action.

A review of the file history shows that the Office mailed an Office action, setting a 1 month statutory time period for reply, to applicants on November 10, 2003. On May 14, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response was filed by facsimile on December 10, 2003. Applicants provide a copy of the submitted reply with the petition, and also a copy of the facsimile transmission report indicating successful transmission of all eight pages to the USPTO on December 10, 2003 at 10:09. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

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 at 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

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Paper No. 6

MAIL

MAR - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of :
OSHIMA et al. :
Application No. 10/425,964 : DECISION ON PETITION
Filed: April 30, 2003 : TO MAKE SPECIAL
For: **DATA PROCESSING APPARATUS** :

This is a decision on the petition filed on February 6, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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#8

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MAY 13 2004
TECHNOLOGY CENTER 2100

Paper No. 8

Thomas D. Robbins
Wenderoth, Lind, & Ponack, LLP
2033 K Street, N.W.
Suite 800
Washington, DC 20006-1021

In re Application of:
Mitsuaki OSHIMA et al.
Application No. 10/425,965
Filed: April 30, 2003
For: DATA PROCESSING APPARATUS

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 29 July 2003, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition is deficient in that there is no statement that Applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

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WENDEROTH LIND & PONACK LLP
2033 K STREET NW
SUITE 800
WASHINGTON, DC 20006-1021

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Mitsuaki Oshima et al :
Application No. 10/425,965 : DECISION GRANTING PETITION
Filed: April 30, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2003_0604 :

This is a decision on the petition, filed June 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 June 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 2115 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ~~~

DATE : 4/25/05

TO SPE OF : ART UNIT 2136

SUBJECT : Request for Certificate of Correction on Patent No.: 6834347 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Gilberto Barron — **SPE**

2132 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 05/06/2010

Applicant	: Sylvie Dore	: DECISION ON REQUEST FOR
Patent Number	: 7636459	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/425,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 25 2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Lomryd et al.	:	
Serial No.: 10/425,993	:	PETITION TO MAKE SPECIAL
Filed: April 30, 2003	:	
Attorney Docket No.: 052209-0104	:	

This is in response to applicants' petition filed March 15, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
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
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JAN 23 2006

OFFICE OF PETITIONS

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Hakan Lomryd et al :
Application No. 10/425,993 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 052209-0104 :

This is a decision on the petition, filed January 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1654 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 23 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hakan Lomryd et al
Application No. :10/425,993
Filed :April 30, 2003

The above-identified application has been assigned Patent No. 6,991,905 and an issue date of January 31, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 31, 2006:

> "All reference to Patent No. 6,991,905 to Hakan Lomryd et al of Sweden for PHARMACEUTICAL COMPOSITION AS SOLID DOSAGE FORM AND METHOD FOR MANUFACTURING THEREOF appearing in the Official Gazette of January 31, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Paper No. 5

G.E. Ehrlich (1995) Ltd.
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of :
Mintz et al. :
Application No. 10/426,002 :
Filed: April 30, 2003 :
Attorney Docket No. 26083 :

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed December 1, 2003. Petitioner obtained a two-month extension of time. Accordingly, the petition was filed timely.

The petition is granted.

Petitioner has shown that Liat Mintz, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Sol Sheinbein establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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OCT 09 2003

OFFICE OF PETITIONS

In re Application of	:	
Chalfin, Kaulgud, and Peercy	:	DECISION ACCORDING STATUS
Application No. 10/426,003	:	UNDER 37 CFR 1.47(a)
Filed: 30 April 2003	:	
Atty Docket No. 1270.00	:	
(1452.3920000)	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 27 August, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent attorney Edward W. Yee, that a copy of the application was sent to the non-signing inventor, Mark Peercy. However, joint inventor Peercy did not return an executed declaration as requested by petitioners. In accepting this petition, the office is construing the declaration of registered patent attorney Edward W. Yee to mean that attorney Yee had personal knowledge that a copy of the application was sent on 20 August, 2003, to the non-signing inventor. Petitioners **must** inform the Office if this is an incorrect interpretation.

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.

Application No. 10/426,003

After this decision is mailed, the 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mark Peercy
7491 Tiptoe Lane
Cupertino, CA 95014

COPY MAILED

OCT 09 2003

OFFICE OF PETITIONS

In re Application of
Chalfin et al.
Application No. 10/426,003
Filed: 30 April, 2003
For: SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR APPLYING DIFFERENT TRANSPORT MECHANISMS FOR USER INTERFACE AND IMAGE PORTIONS OF A REMOTELY RENDERED IMAGE

Dear Mr. Peercy:

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

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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Paper No. 7

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OCT 25 2004

OFFICE OF PETITIONS

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

In re Application of : DECISION ON PETITION
Shimoji et al. :
Application No. 10/426,015 :
Filed: April 30, 2003 :
Atty Docket No.: :
RHM-US-020050 :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed September 15, 2004.

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 (hereinafter "Notice"), mailed July 1, 2003. The Notice required the basic filing fee, the oath or declaration, a late filing fee oath or declaration surcharge, and English translation of the specification and a statement that the translation is accurate, and informed Applicant that any additional claims fees may also be due once the number of claims can be determined. The Notice set a two (2) month period for reply 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 September 2, 2003. A Notice of Abandonment was mailed August 31, 2004.

With the instant petition, Applicant has filed responses to the Notice and completed the requirements of a grantable petition under 37 CFR 1.137(b).

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course, to include a determination as to whether any additional claims fees are due.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/426,027	04/28/2003	2127	1062	M61.12-0484	19	29	1

Steven M. Koehler
WESTMAN CHAMPLIN & KELLY
International Centre - Suite 1600
900 South Second Avenue
Minneapolis, MN 55402-3319

CONFIRMATION NO. 3205

CORRECTED FILING RECEIPT

OC000000014812576

Date Mailed: 12/23/2004

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)

Renaud J. Lecoueche, Bellevue, WA;
Francisco M. Galanes, Kirkland, WA;
Gary R. Evans, Seattle, WA;
Daniel T. Herron, Sammamish, WA;
Yun-Cheng Ju, Bellevue, WA;
David G. Ollason, Seattle, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney:

Nickolas Westman--20147
Robert Angus--24383
Michael Bocianowski--28692
David Bohn--32015
Daniel Crouse--32022
Martin Shively--33553
David Brush--34557
Judson Champlin--34797
Joseph Kelly--34847
D Eppenauer--35499

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/426,027

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Application controls for speech enabled recognition

Preliminary Class

709

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 5

Steven M. Koehler
WESTMAN CHAMPLIN & KELLY
International Centre - Suite 1600
900 South Second Avenue
Minneapolis, MN 55402-3319

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MAR 25 2004

OFFICE OF PETITIONS

In re Application of
Francisco Galanes, Hsiao-Wuen Hon, James Jacoby, Renaud Lecoeuche, Stephen Potter and Susan Warren
Application No. 10/426,057
Filed: April 28, 2003
Attorney Docket Number: M61.12-506
Title of Invention: WEB SERVER CONTROLS FOR WEB ENABLED RECOGNITION AND/OR AUDIBLE PROMPTING

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 23, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that she refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Susan Warren
2138 Nicholl Avenue
Richmond, California 94801

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MAR 25 2004

OFFICE OF PETITIONS

In re Application of
Francisco Galanes, Hsiao-Wuen Hon, James Jacoby, Renaud Lecoeuche, Stephen Potter and Susan Warren
Application No. 10/426,057
Filed: April 28, 2003
Attorney Docket Number: M61.12-506
Title of Invention: WEB SERVER CONTROLS FOR WEB ENABLED RECOGNITION AND/OR AUDIBLE PROMPTING

: LETTER

Dear Ms. Warren:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Steven M. Koehler
WESTMAN CHAMPLIN & KELLY
International Centre - Suite 1600
900 South Second Avenue
Minneapolis MN 55402-3319

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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APR 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,272,688 :
Issued: September 18, 2007 :
Application No. 10/426,084 : DECISION GRANTING PETITION
Filed: April 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NWISP033 :

This is a decision on the petition, filed January 14, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

Petitioner states that the original petition was submitted on July 1, 2005. A review of USPTO financial records discloses that the $1500.00 petition fee was received on July 5, 2005. Therefore, this petition will be considered filed on July 5, 2005.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 30, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the

date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,272,688 on September 18, 2007. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, per petitioner's authorization on the Issue fee Transmittal submitted on August 8, 2007, the $300.00 publication fee will be charged to petitioner's deposit account at this time.

Telephone inquiries concerning 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
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CHAN LAW GROUP LC
1055 W. 7TH ST,
SUITE 1880
LOS ANGELES CA 90017

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark Allen Cleveland	:	DECISION
Application No. 10/426,089	:	ON PETITION
Filed: April 29, 2003	:	37 CFR 1.137(b)
Attorney Docket No. 1050.702	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2005, 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).

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner des-ires 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 Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being forwarded to the Office of Publications.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Blank form PTOL-85b

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)
6,860,816	2005-03-01	10/426,102	2003-04-29	

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	/Wiley Hollopeter #51033/	Date (YYYY-MM-DD)	2009-06-09
Name	Wiley Hollopeter	Registration Number	51033

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. 6860816
Issue Date: March 1,2005
Application No. 10426102
Filed: April 29,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 9,2009 ,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 9,2009 . 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

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NOV 20 2003

Office of the Director
Group 3600

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

Paper No. 3

In re application of
Francois M. DeGevay
Application No. 10/426,104
Filed: April 29, 2003
For: ROUND-CIRCULAR VEHICLE AND METHOD THEREFOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on April 29, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is sincerely regretted.

The petition is **DISMISSED**

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a driver license however the name on the license does not match that in the declaration.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition To Make Special **DISMISSED**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps 11/19/03

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

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY & POPEO, P.C.
1400 PAGE MILL ROAD
PALO ALTO CA 94304

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Tetsuo SHIBUYA :
Application No. 10/426,118 : DECISION ON PETITION
Filed: April 29, 2003 :
Attorney Docket No. **JP920020096US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 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 request for information mailed, December 22, 2005, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 23, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the request for information; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the request for information mailed December 22, 2005 of is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1631 for appropriate action on the concurrently filed response.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

Sughrue Mion PLLC
1010 El Camino Real Suite 300
Menlo Park CA 94025

Dear Applicant:

The Box PGPub replacement drawings for application number 10/426,125 received on 8/27/03 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
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Andrew G.C. Frazier, et al :
Application No. 10/426, 130 :
Filed: April 28, 2003 :
Attorney Docket No. MVMDINC.001CP3 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed August 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner 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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3731 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/426,130	04/28/2003	3731	1048	MVMDINC.001CP3	11	5

CONFIRMATION NO. 7662
CORRECTED FILING RECEIPT
OC000000022839459
OC000000022839459

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 03/09/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Andrew G.C. Frazier, Sunnyvale, CA;
Alexander K. Khairkhahan, Palo Alto, CA;
Erik J. van der Burg, Los Gatos, CA;
Chad C. Roue, Fremont, CA;
Alan R. Klenk, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/435,562 11/08/1999 PAT 7,128,073
which is a CIP of 09/187,200 11/06/1998 PAT 6,152,144

Foreign Applications

If Required, Foreign Filing License Granted: 07/18/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/426,130

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Detachable atrial appendage occlusion balloon

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

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MICHAEL BEST & FRIEDRICH
ONE SOUTH PINCKNEY STREET
PO BOX 1806
MADISON WI 53701

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DEC 18 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Martin et al :
Application No. 10/426,147 :
Filed: April 29, 2003 :
Attorney Docket No. 065435-9026 :

This is a decision on the petition, filed December 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 26, 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 1624 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/8/08

Patent No. :7005193
Inventor(s) : Mc Neil Andrew C
Issued : 4/29/2003
Title : METHOD OF ADDING MASS TO MEMS STRUCTURES
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. 9 line 59 claim 4 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

FRESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 West Parmer Lane PL02
Austin, TX 78729

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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5 HOUSTON CENTER
1401 MCKINNEY, SUITE 2700
HOUSTON, TX 77010

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APR 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Armen N. Abazajian et al :
Application No. 10/426,154 : NOTICE
Filed: April 29, 2003 :
Attorney Docket No. 41290.14USPT

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 1621.

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
Washington, DC 20231
www.uspto.gov

9/24/03

Sughrue Mion PLLC
1010 El Camino Real Suite 300
Menlo Park CA 94025

Dear Applicant:

The Box PGPub replacement drawings for application number 10/426,162 received on 8/27/03 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
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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

Lance B. House
2267 Okada Court
Orlando FL 32818

COPY MAILED

JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Lance Barant House
Application No. 10/426,180
Filed: December 29, 2003
Title: Service 'V'

DECISION ON PETITION

This is in response to the communication, filed October 7, 2005, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

On February 10, 2005, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. The application became abandoned on May 11, 2005, for failure to submit a timely response to the nonfinal Office action. On September 20, 2005, 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 nonfinal Office action. Specifically, petitioner states that due to the fatal illness of his mother and her death on May 10, 2005, he does not recall receiving the nonfinal Office action of February 10, 2005. Additionally, petitioner asks the Office to send him the necessary petition forms and inform him of the requisite fees due to revive the application.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

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 nonfinal Office action of February 10, 2005, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after February 10, 2005, to demonstrate nonreceipt of the nonfinal Office action. 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 action, and where petitioner would have entered the receipt date of the Office action 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 action, indicating that a search was conducted of the location where the correspondence from the USPTO is kept; however, the nonfinal Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after February 10, 2005; the period when he would have received the nonfinal Office action.

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 nonfinal Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the nonfinal Office action accompanies 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 nonfinal Office action 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 nonfinal Office action. 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 may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, 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). 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 a copy of the nonfinal Office action dated February 10, 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

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OCT 17 2005

Director's Office
Group 3700

KUO-HSIUNG CHIU
13F., NO.23, JIUN-HO STREET, PEITUN DISTRICT
TAICHUNG, TAIWAN 406

In re Patent Application of
WANG ET AL.
Appl. No.: 10/426,196
Filed: May 1, 2003

DECISION DISMISSING PETITION
37 CFR 1.181

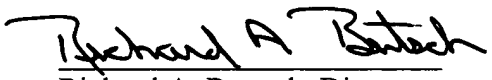
This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed December 7, 2004. In view of the statements in the letter of January 17, 2005, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is dismissed. The application remains abandoned.

The records of the Office indicate that an Office action was mailed to applicant at the address of record on April 19, 2004. There is a strong presumption that mail properly addressed and delivered to the United States Postal Service is in fact delivered to the addressee. An allegation that an Office action was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with Delgar Inc. v. Schuyler, 172 USPQ 513. This presumption that the Office action was delivered to applicant may be overcome by a showing that the action was not, in fact, received. As part of the showing, applicant must submit (1) a statement by him, and/or by anyone else at applicant's correspondence address that would have handled the Office action, stating that the Office action was not received, (2) a statement attesting to the fact that a search of the file jacket and other records indicate that the Office action was not received, and (3) all supporting documentary evidence available, as proof contra to the presumption of the delivery of the Office action such as copies of records, which disclose the receipt of other correspondence mailed from the Office on or about the same date as the action in question but fail to disclose receipt of that action would be acceptable or copies of records in which the action would have been entered had it been received, for example, file jacket notations, calendar notations, docket records, etc.

The request filed January 17, 2005 includes item (1) but not (2) and (3). Petitioner has not provided a statement attesting to the fact that he has searched the file jacket and that of all other records that he keeps for the instant application, which search failed to indicate that the Office communication in question was received. Petitioner has failed to describe what records, if any, he keeps to let him know what papers he has received from the Office and the due dates for the responses that need to be filed. How and where is the information regarding receipt of Office papers and mailing of responses kept? How does petitioner know a response is due? Is this information kept on a calendar? Separate sheet of paper? On the file maintained by petitioner? An explanation of where/how the above information is kept and copies of the pertinent papers should be submitted. To aid petitioner prepare a renewed petition, if that is petitioner's desire, enclosed is a copy of section 711.03(c) of the Manual of Patent Examining Procedure (MPEP), which section deals with petitions relating to abandonment. Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.



Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANDREW C. GREENBERG, ESQ.
CARLTON FIELDS, P.A.
ATTN: INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 3239
TAMPA, FL 33601-3239

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OCT 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Feher	:	
Application No. 10/426,199	:	DECISION ON PETITION
Filed: April 30, 2003	:	TO WITHDRAW
Attorney Docket No. 46404/09106	:	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 19, 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 Andrew C. Greenberg on behalf of all attorneys of record.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: IVAN ART FEHER
220 BEISELBECK ROAD
LACKAWAXEN, PA 18435

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Olof Claes Erik Kordina	:	DECISION ON PETITION
Application No. 10/426,200	:	TO WITHDRAW
Filed: April 30, 2003	:	FROM RECORD
Attorney Docket No. 5308-682	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 16, 2006 the power of attorney to Schnader Harrison Segal & Lewis, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: D. Randal Ayers
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh NC 27627

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 042304

APR 27 2004

KAPLAN & GILMAN, L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

In re Application of	:	
King Mo Shum	:	DECISION ON PETITION
Application No. 10/426,215	:	
Filed: April 30, 2003	:	
Attorney Docket No. 370/3	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 12, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

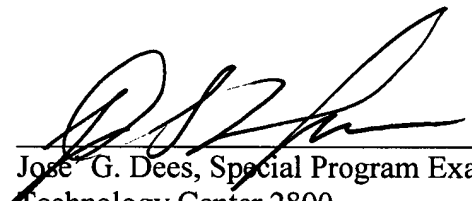
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Andrew M. Cherniski, et al. :
Application No. 10/426,229 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 200207750-1 :

This is a decision on the petition, filed March 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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.

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114 filed September 27, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Xu, et al.
Application No. 10/426,262
Filed: April 30, 2003
Attorney Docket No. 9151-23
For: MUTATIONS IN THE MACROPHAGE SCAVENGER RECEPTOR 1 GENE ALTER RISK OF PROSTATE CANCER, ASTHMA, AND CARDIOVASCULAR DISEASE

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, " PETITION TO ACCORD THE PROPER FILING DATE," filed July 17, 2003 (certificate of mailing date July 15, 2003), requesting that the above-identified application be accorded a filing date of April 30, 2003 rather than the presently accorded filing date of May 1, 2003. The petition will be treated 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 30, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV353591886US showing no "date-in" **and** a USPS date stamp of APR 30, 2003. The same Express Mail label number is listed on the original CERTIFICATE OF EXPRESS MAILING found in the application file. In addition, the USPS Track and Confirm database record regarding the package associated with Express Mail label no. EV353591886US shows that it was accepted on April 30, 2003.

In short, the evidence presented establishes that an Express Mail package associated with Express Mail label no. EV353591886US was deposited with the USPS on April 30, 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 30, 2003**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MYERS BIGEL SIBLEY & SAJOVEC
P O BOX 37428
RALEIGH, NC 20627

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OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Jianfeng Xu et al	:	
Application No. 10/426,262	:	DECISION ON PETITION
Filed: April 30, 2003	:	
Attorney Docket No. 9151-23	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 7, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 9, 2007 (January 7, 2007, the due date, was a Sunday).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of August 7, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1643 to await the filing of an appeal brief, or other such proper reply to continue prosecution of this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : January 4, 2006

Timothy J. Ziolkowski
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC
14135 N. Cedarburg Road
Mequon, WI 53097-1416

Patent No: **6939237 B1**
Application No.: 10/426277
Applicant: Justin L. Voden
Issued: September 6, 2005
Title: **POOL CUE HAVING ATTACHABLE WEIGHT**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Inspection of the application for the above patent reveals that the alleged error in figure 8b is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner.

In view of the foregoing, your request in this matter is hereby **denied.**

However, further consideration will be given, upon receipt of a renewed request containing facts and/or accompanied by a copy of documents supporting the change(s) requested. Such requests, should be 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 Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of :
Bedner, et al. :
Application No. 10/426,302 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. DP-308199/DE3-0296 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed October 28, 2005. Accordingly, this application became abandoned on January 29, 2006. A Notice of Abandonment was mailed on March 28, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the October 28, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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 this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

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
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STEPHEN A. GRATTON
THE LAW OFFICE OF STEVE GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD, CO 80228

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Connell, et al. :
Filed: April 30, 2003 : ON PETITION
Application No. 10/426,320 :
Dkt. No.: 02-0263,1 :

The above-referenced application has been forwarded to the Office of Petitions in response to the "PETITION TO CORRECT A FILING DATE APRIL 28, 2005" filed May 2, 2005, to accord the instant application a filing date of April 30, 2003.

The application was filed April 30, 2003. On November 22, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of April 30, 2003, but that Figure 10 described in the specification appeared to have been omitted.

The Notice permits 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 (37 CFR 1.181(f)).

Petitioners submitted a second preliminary amendment on July 21, 2003 requesting that the application be amended to include the omitted figure 10 and relying upon "incorporation by reference." See, MPEP 201.03(c).

Thereafter, the application was accorded a filing date as of the date of submission of the omitted figure, i.e. July 21, 2003.

Petitioners herein argue that the application was improperly accorded a later filing date and that because the omitted figure was incorporated by reference, the application was entitled to a filing date of April 30, 2003 and that a petition in response to the Notice was not required.

Petitioners' arguments have been considered and are found persuasive. In accordance with MPEP 608.01(p), as a safeguard against the omission of a portion of a prior application for which priority is claimed under 35 U.S.C. 119(a)-(d) or (f), or for which benefit is claimed under 35 U.S.C. 119(e) or 120, applicant may include a statement at the time of filing of the later application incorporating by reference the prior application. *See*, MPEP § 201.13 where foreign priority is claimed. Further, nonessential subject matter may be incorporated by reference to patents or applications published by foreign countries.

Moreover, in accordance with MPEP 201.06(c), an applicant may incorporate by reference a prior filed application by including, in the application-as-filed, a statement that such application(s) is incorporated by reference. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the application to include any subject matter in such prior application(s), without the need for a petition.

In view thereof, the Office improperly changed the filing date of the instant application. Thus, the petition to accord the instant application a filing date of April 30, 2003 is hereby **GRANTED**.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 30, 2003.

Thereafter, the application will be returned to Group Art Unit 2813 for consideration by the examiner of the response submitted herewith to the non-final Office action mailed February 3, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Childers et al. :
Application No. 10/426,332 : DECISION ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 10971936-13 :

This is a decision on the petition under 37 CFR 1.181, filed June 10, 2005, and resubmitted on November 30, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

On August 13, 2004, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period for reply. On September 9, 2004, applicants filed a response to the Notice. On May 20, 2005, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they filed a timely reply in response to the Notice of Non-Compliant Amendment via facsimile transmission on September 9, 2004. In support of the assertion, petitioners submitted a copy of the sending facsimile units report confirming transmission of 8 pages to the facsimile number (703) 872-9306 on September 9, 2004; a copy of the transmitted correspondence; and, a certificate of facsimile transmission.

Upon a review of the record, the Office has located the amendment filed on September 9, 2004, in response to the Notice of Non-Compliant Amendment. Accordingly, the petition is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status in view of the fact that a response was filed timely and received in the USPTO on September 9, 2004.

The matter is being referred to the Technology Center Art Unit 2861 for a review of the amendment submitted on September 9, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/426,345 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.

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Signature of Reviewer, Office of Initial Patent Examination

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United States Patent and Trademark Office
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Paper No. 5

MARK R. WISNER
C/O WISNER & ASSOCIATES
2925 BRIARPARK, SUITE 930
HOUSTON, TX 77042

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SEP 1 7 2003

OFFICE OF PETITIONS

In re Application of
Colin Sayers et al
Application No. 10/426,352
Filed: April 11, 2003
Attorney Docket No. GEOA,160
(94.0049)

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on the petition under 37 CFR 1.10(c), filed August 15, 2003, requesting that the above-identified application be accorded a filing date of April 10, 2003, rather than the presently accorded date of April 11, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 10, 2003 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL 576168747 US showing a "date-in," as well as a stamped postal date, of April 10, 2003. The same Express Mail receipt number was placed on the Certificate of Mailing of the cover page for the subject patent application.

To further support applicants' assertion that the subject application was deposited in Express Mail on April 10, 2003, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on April 10, 2003 at the Houston, TX USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on April 10, 2003. Accordingly, the instant application is entitled to a filing date of April 10, 2003, and has been so accorded.

The petition is **granted**.

It is noted that the Request for Corrected Filing Receipt filed concurrently with the instant petition requests that the attorney name, address and docket number be corrected. However, there is no indication in the file that the appropriate power of attorney documentation has been submitted. Therefore,

the changes requested by petitioner herein will not be made of record at this time. A courtesy copy of this decision is being mailed to petitioner at the address noted on the Corrected Filing Receipt and the instant petition. However, until such times as the appropriate power of attorney documentation is received, all further correspondence regarding this file will be mailed to the above address, which is the correspondence address provided at the time of filing of the instant application. Note 37 CFR 1.33(a).

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of April 10, 2003.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Danita J.M. Maseles
Schlumberger Information Solutions
5599 San Felipe, Suite 1700
Houston, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MARK R. WISNER
C/O WISNER & ASSOCIATES
2925 BRIARPARK, SUITE 930
HOUSTON, TX 77042

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SEP 17 2003

OFFICE OF PETITIONS

In re Application of
Colin Sayers et al
Application No. 10/426,352
Filed: April 11, 2003
Attorney Docket No. GEOA,160
(94.0049)

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.10(c)

This is a decision on the petition under 37 CFR 1.10(c), filed August 15, 2003, requesting that the above-identified application be accorded a filing date of April 10, 2003, rather than the presently accorded date of April 11, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 10, 2003 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL 576168747 US showing a "date-in," as well as a stamped postal date, of April 10, 2003. The same Express Mail receipt number was placed on the Certificate of Mailing of the cover page for the subject patent application.

To further support applicants' assertion that the subject application was deposited in Express Mail on April 10, 2003, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on April 10, 2003 at the Houston, TX USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on April 10, 2003. Accordingly, the instant application is entitled to a filing date of April 10, 2003, and has been so accorded.

The petition is **granted**.

It is noted that the Request for Corrected Filing Receipt filed concurrently with the instant petition requests that the attorney name, address and docket number be corrected. However, there is no indication in the file that the appropriate power of attorney documentation has been submitted. Therefore,

the changes requested by petitioner herein will not be made of record at this time. A courtesy copy of this decision is being mailed to petitioner at the address noted on the Corrected Filing Receipt and the instant petition. However, until such times as the appropriate power of attorney documentation is received, all further correspondence regarding this file will be mailed to the above address, which is the correspondence address provided at the time of filing of the instant application. Note 37 CFR 1.33(a).

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of April 10, 2003.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Danita J.M. Maseles
Schlumberger Information Solutions
5599 San Felipe, Suite 1700
Houston, TX 77056

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KIRK M. MILES
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700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219-1818

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OFFICE OF PETITIONS

In re Application of	:	
Tanweer Ahsan et al	:	
Application No. 10/426,374	:	DECISION GRANTING PETITION
Filed: April 30, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3833-030492	:	
(LDEO-110)	:	

This is a decision on the petition, filed May 4, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2814 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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436 SEVENTH AVENUE
PITTSBURGH PA 15219

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OFFICE OF PETITIONS

Applicant: Ahsan et al.
Appl. No.: 10/426,374
Filing Date: April 30, 2003
Title: FLAME-RETARDANT MOLDING COMPOSITIONS
Attorney Docket No.: 3833-030492
Pub. No.: US 2004/0217376 A1
Pub. Date: November 4, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 18, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

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JUN 3 0 2008

OFFICE OF PETITIONS

In re Application of :
George Puzant DER-BALIAN :
Application No. 10/426,386 : DECISION ON PETITION
Filed: April 29, 2003 : TO WITHDRAW
Attorney Docket No. 7028-0700 : 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, 2008.

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, 2008. 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 undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TIANJUN HOU
HOUST CONSULTING
P.O. BOX 2688
SARATOGA, CA 95070

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROCKWELL SCIENTIFIC COMPANY, LLC
P.O. BOX 1085
MAIL CODE A15
THOUSAND OAKS, CA 91358

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SEP 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Maxim Pedyash, Victor Panov, :
Nikolai Romanov, Dustin : DECISION GRANTING PETITION
McIntire, Gary Gould, Loren : UNDER 37 CFR 1.47(a)
Clare, Jonathan Agre, Allen :
Twarowski and James Duncan
Application No. 10/426,407
Filed: April 29, 2003
Title: MODULAR WIRELESS INTEGRATED NETWORK SENSOR (WINS) NODE WITH A DUAL BUS ARCHITECTURE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 9, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventors cannot be located to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The last known address for the non-signing inventors is assumed to be the address stated in the Declaration.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

DUSTIN MCINTIRE
924 SHARON LANE
VENTURA, CA 93001

In re Application of
Maxim Pedyash, Victor Panov, Nikolai Romanov, Dustin McIntire, Gary Gould, Loren Clare, Jonathan Agre, Allen Twarowski and James Duncan
Application No. 10/426,407
Filed: April 29, 2003
Title: MODULAR WIRELESS INTEGRATED NETWORK SENSOR (WINS) NODE WITH A DUAL BUS ARCHITECTURE

Dear DUSTIN MCINTIRE:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

ROCKWELL SCIENTIFIC COMPANY, LLC
P.O. BOX 1085
MAIL CODE A15
THOUSAND OAKS, CA 91358

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SEP 2 5 2003

OFFICE OF PETITIONS

VICTOR PANOV
1710 HILLCREST DRIVE, #27
NEWBURY PARK, CA 91320

In re Application of
Maxim Pedyash, Victor Panov, Nikolai Romanov, Dustin McIntire, Gary Gould, Loren Clare, Jonathan Agre, Allen Twarowski and James Duncan
Application No. 10/426,407
Filed: April 29, 2003
Title: MODULAR WIRELESS INTEGRATED NETWORK SENSOR (WINS) NODE WITH A DUAL BUS ARCHITECTURE

Dear VICTOR PANOV:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No.

SALIWANCHIK LLOYD &
SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE FL 32614

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Sahni et al.	:	
Application No. 10/426,423	:	LETTER REGARDING
Filed: April 30, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. UF-311X	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed February 11, 2009. Pursuant to their duty of good faith and candor to the Office, applicants disclose that they believe the patent is entitled to only one thousand one hundred seventy-four (1174) days of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one thousand one hundred seventy-four **(1174)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On December 30, 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 1260 days. Applicants point out that a period of reduction should have been entered for the filing of a supplemental amendment on June 6, 2008.

Applicants are correct. 37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, in response to the non-final rejection mailed December 12, 2007, on March 12, 2008, applicants filed an amendment. Thereafter, on June 6, 2008, applicants filed the supplemental amendment. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 86 days is being entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE THOUSAND ONE HUNDRED SEVENTY-FOUR (1174) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The 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 application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

PTA Calculations for Application: 10/426423			
Application Filing Date:	04/30/2003	PTO Delay (PTO):	1260
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1174
PTO Delay Adjustment:	-86		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	03/15/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		86	
54	12/30/2008	MAIL NOTICE OF ALLOWANCE			
53	12/29/2008	ISSUE REVISION COMPLETED			
52	12/22/2008	DOCUMENT VERIFICATION			
51	12/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	12/22/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
49	12/22/2008	NOTICE OF ALLOWABILITY			
47	12/18/2008	DATE FORWARDED TO EXAMINER			
46	11/25/2008	AMENDMENT AFTER FINAL REJECTION			
45	11/17/2008	MAIL ADVISORY ACTION (PTOL - 303)			
44	11/17/2008	ADVISORY ACTION (PTOL-303)			
43	11/13/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	11/12/2008	DATE FORWARDED TO EXAMINER			
41	11/11/2008	AMENDMENT AFTER FINAL REJECTION			
40	11/05/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	10/28/2008	MAIL FINAL REJECTION (PTOL - 326)			
38	10/27/2008	FINAL REJECTION			
37	10/13/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	08/21/2008	DATE FORWARDED TO EXAMINER			
35	07/25/2008	RESPONSE AFTER NON-FINAL ACTION			
34	06/24/2008	MAIL NON-FINAL REJECTION			
33	06/23/2008	NON-FINAL REJECTION			
32	04/15/2008	DATE FORWARDED TO EXAMINER			

31	03/12/2008	RESPONSE AFTER NON-FINAL ACTION			
30	12/12/2007	MAIL NON-FINAL REJECTION	1260		-1
29	12/10/2007	NON-FINAL REJECTION			
26	03/05/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	08/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	05/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	05/25/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	05/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	01/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	10/15/2004	CORRESPONDENCE ADDRESS CHANGE			
13	07/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	03/05/2004	REFERENCE CAPTURE ON IDS			
11.7	03/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	07/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	09/24/2003	APPLICATION DISPATCHED FROM OIPE			
8	09/25/2003	APPLICATION IS NOW COMPLETE			
7	07/02/2003	ADDITIONAL APPLICATION FILING FEES			
6	07/02/2003	SMALL ENTITY STATEMENT (37 CFR 1.27)			
5	07/02/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	06/20/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	05/23/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091109

DATE : November 18, 2009

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: 7354908

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: /Tracy Vivlemore/ (Acting) **Art Unit** 1635

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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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AUG 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Gustavson et al. :
Application No. 10/426,472 :
Filed: February 20, 2001 : ON PETITION
Title of Invention: :
METHOD FOR OPTIMIZING LASER :
DIODE OPERATING CURRENT :

This is a decision on the petition to revive an application abandoned unintentionally under 37 CFR 1.137(b), filed March 7, 2006, to revive the above-identified application.

The petition is **dismissed.**

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed June 19, 2003. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on August 20, 2003. A Notice of Abandonment was mailed February 27, 2006.

The instant petition

Applicant files the instant petition nearly three (3) years after the mailing of the Notice.

Applicable Law(s), Rule(s) and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 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**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). The Director of the USPTO may require additional information where there is a question whether the delay was unintentional.

Applicant lacks item (**3**) above.

In order for the petition under 37 CFR 1.137(b) to be considered grantable, what is required is a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. In view of the considerable time that has passed from the mailing of the Notice on June 19, 2003, and the filing of this petition on March 7, 2006, there is a question of whether the entire delay was unintentional.

Conclusion

Applicant must explain why it took more than two and one-half years to reply to the Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SALT LAKE CITY UT 84111

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Gustavson et al.	:	
Application No. 10/426472	:	ON PETITION
Filing or 371(c) Date: 04/29/2003	:	
Attorney Docket Number:	:	
15436.250.29.1	:	

This is a decision on the Request for Reconsideration of Petition Under 37 C.F.R. § 1.137, filed May 24, 2007. The petition is properly treated under 37 CFR 1.137(b).

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers ("Notice"), mailed June 19, 2003. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on August 20, 2003. A Notice of Abandonment was mailed February 27, 2006.

Applicant filed a petition to revive the application under 37 CFR 1.137(b), on March 7, 2006, which was dismissed in a Decision mailed August 9, 2006. Applicant was asked to explain, in view of the considerable amount of time that had passed from the mailing of the Notice to the filing of the petition, why the entire delay was unintentional.

The present petition

Applicant files the present petition and has demonstrated that the entire delay was unintentional. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply to the Notice (drawings previously filed on March 7, 2006); (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for processing of the reply, and for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
CORPORATE LAW DEPARTMENT
1303 EAST ALGONQUIN ROAD
SCHAUMBURG, IL 60196

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Henry Wong :
Application No. 10/426,484 : ON PETITION
Filed: April 30, 2003 :
Title of Invention: :
LATCHING APPARATUS FOR MOUNTING :
A COMPUTER MODULE :

This is in response to the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed June 13, 2005.

The petition under 37 CFR 1.137(a) is dismissed.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background:

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 30, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 1, 2004. A Notice of Abandonment was mailed January 20, 2005.

The instant petition

Applicant files the instant petition and asserts that the delay was unavoidable because of a clerical error by Motorola in preparing Change of Address in December 2004, the PTO sent the

Notice of Allowance and Fee(s) Due to our former address…." Applicant submits $1400.00 for the issue fee and $300.00 for the publication fee.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a Request for Continued Examination; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

Applicable Law

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1] 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added). "In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C.

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing"

[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

by petitioner. Therefore, Applicant has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; Applicant must prove that the delay was unavoidable. A petition will not be granted if Applicant provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Applicant's Assertion

Applicant files the instant petition and asserts that the delay was unavoidable because of a clerical error by Motorola in preparing Change of Address in December 2004, the PTO sent the

Notice of Allowance and Fee(s) Due to our former address…." Applicant submits $1400.00 for the issue fee and $300.00 for the publication fee." Petition at p.3.

As to item (**3**), Applicant has failed to demonstrate that the delay in responding to the final Office action was unavoidable.

As to Applicant's assertion, that the delay was unavoidable because of a clerical error by Motorola in preparing Change of Address in December 2004, this Office finds that a reasonable person, in relation to their most important business, would have ensured that the correspondence address was correct. While the delay in paying the issue fee may have been unintentional, it was not unavoidable.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CORPORATE LAW DEPARTMENT
1303 EAST ALGONQUIN ROAD
SCHAUMBURG, IL 60196

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of	:	
Henry Wong	:	
Application No. 10/426,484	:	ON PETITION
Filed: April 30, 2003	:	
Title of Invention:	:	
LATCHING APPARATUS FOR MOUNTING	:	
A COMPUTER MODULE	:	

This is in response to the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(b), filed August 18, 2005 (Certificate of Mailing dated August 17, 2005).

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 30, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 1, 2004. A Notice of Abandonment was mailed January 20, 2005.

The issue fee was paid on June 13, 2005.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 4

CARY S. KAPPEL
DAVIDSON DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Schneider Uwe et al
Application No. 10/426,531
Filed: April 30, 2003
Attorney Docket No. 5007.1017

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2143.

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

WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

JUN 04 2007

In re Application of:
GONEN, ALON, et al.
Serial No. 10/426544
Filed: April 30, 2003
Docket: 239/03498
Title: GAMBLING GAMES

DECISION ON PETITION
UNDER
37 CFR §§ 1.144 and 1.181

This is a decision on the petition filed April 11, 2006 under 37 CFR § 1.181 requesting withdraw of the finality of the Office action dated November 14, 2005, and on the petition filed March 02, 2006 under 37 CFR § 1.144 requesting retraction of the restriction requirement set forth in the Office action dated December 29, 2004.

The petitions are dismissed as moot.

The examiner construed the petitions as requests for reconsideration in the Office action dated February 20, 2007. In finding petitioner's points of argument persuasive, the requested relief was granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

PETITION DISMISSED AS MOOT.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 6

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of
Bobby K. Flippo and John W. Best
Application No.10/426,551
Filed: April 30, 2003
Attorney Docket Number: N8090/285669
Title of Invention: CONVEYOR WHEEL AXLE AND YOKE SUPPORT

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 22, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts attest a copy of the application was presented in person to non-signing inventor Flippo. Petitioner has provided a statement from Jerry Stone who states inventor Flippo refused to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Deposit account 11-0855 has been charged the $130.00 petition fee.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
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

Bobby K. Flippo
3720 Renee
Jonesboro, AR 72404

In re Application of
Bobby K. Flippo and John W. Best
Application No.10/426,551
Filed: April 30, 2003
Attorney Docket Number: N8090/285669
Title of Invention: CONVEYOR WHEEL AXLE AND YOKE SUPPORT

LETTER

Dear Mr. Flippo:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema Grant
Petitions Attorney
Office of Petitions

Christopher J. Chan
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101-2400

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Glenn Davina et al :
Application No. 10/426,573 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 49942-277480

This is a decision on the petition, filed July 7, 2005 and supplemented on July 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 April 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 is being referred to Technology Center AU 1712 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
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ALEXANDRIA, VA 22313-1450
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Paper No. 3

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Jin et al. :
Application No. 10/426,585 : DECISION ON
Filed: April 30, 2003 : PETITION
Attorney Docket No. 5649-941DV :

This is a decision on the "PETITION TO ACCORD THE PROPER FILING DATE," filed July 31, 2003, requesting that the above-identified application be accorded a filing date of April 30, 2003, rather than the presently accorded filing date of May 1, 2003.

The petition is **GRANTED**.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on April 30, 2003, pursuant to the requirements of 37 C.F.R. § 1.10. In support thereof, petitioner submitted *inter alia*:

- a true copy of the application transmittal bearing the Express Mail mailing label number thereon; and
- a true copy of "Express Mail" mailing label No. EV193585733US.

The instant petition was filed promptly within the meaning of § 1.10. A review of the evidence further reveals that: The application transmittal identifies the papers that were received in the Office in the Express Mail package and is a true copy of the transmittal received in the Office on May 1, 2003. Most importantly, the transmittal bears the Express Mail mailing label number EV193585733US. Thus, petitioner has shown that the Express Mail mailing label number was placed on the correspondence prior to the original mailing.

Furthermore, a review of the Express Mail mailing label No. EV193585733US reveals that the package was sent via the USPS "Express Mail Post Office to Addressee" service. Although the copy submitted does not include a handwritten date-in, the label does bear a USPS postmark of April 30, 2003. Moreover, the USPTO's USPS Express Mail Information Database shows that the relevant Express Mail mailing was accepted by the USPS at 5:48 pm on April 30, 2003. (Copy of Database Printout Enclosed).

In view thereof, the petition must be 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 30, 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
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SEP 14 2006

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of
Philippe Collas et al.
Application No. 10/426,595
Filed: April 30, 2003
Attorney Docket No. 50195/013002

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:
:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 27, 2006 , 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 **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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.

Since the instant application was filed April 30, 2003 and seeks to claim the benefit of application no. 10/910,156 filed August 2, 2004, a later filed application, the petition is not in compliance with 37 CFR 1.78(a)(1) and (2).

A petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed priority claim must claim the benefit of one or more prior-filed copending nonprovisional applications, must contain or be amended to contain a reference to each such prior-filed applications, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional,

or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: " Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(1) and (2) and is therefore unacceptable.

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 inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of
Philippe Collas et al.
Application No. 10/426,595
Filed: April 30, 2003
Attorney Docket No. 50195/013002

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and 37 CFR 1.78(a)(6)
:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 3, 2006 , 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.

All of the above requirements having been satisfied, the late claims for priority under 35 U.S.C. § 120 and 119(e) are 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 the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing

Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to 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 AU 1633 for appropriate action on the amendment submitted October 3, 2006, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed applications.

Nancy Johnson for

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
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/426,595	04/30/2003	1633	986	50195/013002	28	34	13

CONFIRMATION NO. 5912
CORRECTED FILING RECEIPT

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

OC000000021442306
OC000000021442306

Date Mailed: 12/01/2006

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)

Philippe Collas, Oslo, NORWAY;
James M. Robl, Brandon, SD;
Bjorn Steen Skalhegg, Blommenholm, NORWAY;

Power of Attorney:

Paul Clark--30162
Karen Elbing--35238
Kristina Bieker-Brady--39109
Susan Michaud--42885
James DeCamp--43580
Vicki Healy--48343
Jeffrey Ellison--51649
J McDonald--52011
Jan Tittel--52290
Michael Belliveau--52608

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/08120 03/14/2003
which claims benefit of 60/376,653 04/30/2002
This application 10/426,595
is a CIP of 10/015,824 12/10/2001 ABN
which claims benefit of 60/258,152 12/22/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/426,595

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods for altering cell fate to generate T-cells specific for an antigen of interest

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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101 FEDERAL STREET
BOSTON MA 02110

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DEC 17 2008

OFFICE OF PETITIONS

In re Application :
Collas, et al. :
Application No. 10/426,595 : PATENT TERM ADJUSTMENT
Filed: April 30, 2003 :
Dkt. No.: 50195/013002 :

This is a decision on the "REQUEST FOR CORRECTION OF ATENT TERM ADJUSTMENT," filed June 18, 2008. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed March 17, 2008, indicated a patent term adjustment (PTA) to date of 453 days. The instant application for PTA was timely filed June 18, 2008, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is 453 days, as indicated on the Determination of Patent Term Adjustment mailed March 17, 2008.

Applicants herein do not dispute the patent term adjustment (PTA) accorded to date (453 days).

Instead, the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the

request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The Office acknowledges receipt of the required application fee of $200.00. No additional fee will be required if applicants are solely requesting reconsideration of additional time related to failing to issue the patent within three years in accordance with 37 CFR 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED

MAR 16 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,491,534
Issued: February 17, 2009
Application No. 10/426,595
Filed: April 30, 2003
Dkt. No.: 50195/013002

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on April 16, 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 1,476 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

Patentees acknowledge the period of adjustment to which the patent is entitled under 37 CFR 1.702(a) (758 days).

Patentees have correctly set forth the period of adjustment to which the patent is entitled under 37 CFR 1.702(b) (1,024 days).

Patentees have correctly determined the number of days by which the periods of adjustment under 37 CFR 1.702(a) and (b) overlap (122 days).

Patentees have correctly set forth the number of days the period of adjustment under 37 CFR 1.702(a)and (b) must be reduced due to applicant delay (184 days).

The net result of patentees' calculation yields an adjustment of 1,476 days (758 days under 37 CFR 1.702(a) + 1,024 days under 37 CFR 1.702(b) – 122 overlapping days – 184 days of applicant delay).

However, the "B" delay may not include the number of days in the period beginning on the date on which a Notice of Appeal was filed and ending on the date of mailing of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35

U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences. See, 37 CFR 1.703(b)(4).

Accordingly, as a Notice of Appeal was filed October 11, 2007 and an Ex Parte Quayle action was mailed November 1, 2007, the adjustment is properly reduced an additional 22 days.

In view thereof, the patent is entitled to an overall adjustment of 1,454 days (758 days under 37 CFR 1.702(a) + 1,024 days under 37 CFR 1.702(b) – 122 overlapping days – 22 days pursuant to 37 CFR 1.703(b)(4) – 184 days of applicant delay).

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. See 37 CFR 1.323(a)(4).

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections 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 1,454 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,491,534

DATED : **April 14, 2009** **DRAFT**

INVENTOR(S) : Collas, 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 840 days

Delete the phrase "by 840 days" and insert – by 1,454 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United-States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

Priest and Goldstein PLLC
5015 Southpark Drive
Suite 230
Durham, NC 27713-7736

COPY MAILED

AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Krishnan Kumaran :
Application No. 10/426,602 : DECISION GRANTING
Filed: May 1, 2003 : PETITION
Attorney Docket No. 100.2461 :

This is a decision on the petition filed May 22, 2003, requesting that the above-identified application be accorded a filing date of April 30, 2003, rather than the presently accorded date of May 1, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on April 30, 2003. In support, the petition is accompanied by a copy of Express Mail receipt No. EO900774331US, showing a "date-in" of April 30, 2003. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on April 30, 2003.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of April 30, 2003.**

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 3

CARY S. KAPPEL
DAVIDSON DAVIDSON & KAPPEL LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

COPY MAILED

JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of
Michael Greve et al
Application No. 10/426,607
Filed: April 30, 2003
Attorney Docket No. 5007.1018

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 2126.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JOE MCKINNEY MUNCY
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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APR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Yu-Chi Lee et al :
Application No. 10/426,626 : NOTICE
Filed: May 1, 2003 :
Attorney Docket No. 4444-0114P

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

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET N W
WASHINGTON DC 20005-3315

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OCT 20 2004

OFFICE OF PETITIONS

Applicant: Simonnet et al.
Appl. No.: 10/426,630
Filed: May 1, 2003
Title: WATER-IN-OIL EMULSION FOUNDATION
Attorney Docket No.: 5725.1194-00
Pub. No.: US 2004/0009131 A1
Pub. Date: January 15, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 15, 2004 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent is issued before the application publishes.

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
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THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO CA 90245-0956

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of :
James A. Michener :
Application No. 10/426,664 : DECISION ON PETITION
Filed: April 30, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PD-202091 :

This is a decision on the petition, filed May 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 30, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of November 1, 2007, has been mailed under separate cover.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is currently before the Examiner of Technology Center Art Unit 2626 for appropriate action on the reply received March 16, 2007 to the Office action of December 18, 2006.

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

USDA, ARS, OTT
5601 SUNNYSIDE AVENUE
RM 4-1159
BELTSVILLE, MD 20705-5131

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of :
Norman J. Stern, et. al. :
Application No. 10/426,688 : ON PETITION
Filed: May 1, 2003 :
Attorney Docket No. 0175.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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.

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

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

JAN 21 2009

In re Application of	:	
Baker et al.	:	
Application No. 10/426,692	:	DECISION ON PETITION
Filed: May 1, 2003	:	
Attorney Docket No. 8466-000001/US/CPA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 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 August 7, 2008, as required by the Notice of Allowance and Fee(s) Due mailed May 7, 2008. Accordingly, the date of abandonment of this application is August 8, 2008. A Notice of Abandonment was mailed 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 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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES 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-07

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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MAR 2 7 2007

OFFICE OF PETITIONS

In re Patent No. 7004006 :
Issued: 02/28/2006 :
Application No. 10/426694 : ON PETITION
Filed: 05/01/2003 :
Attorney Docket No. 030447 :

This is a decision on the petition under 37 CFR 1.182, filed on 3 October, 2006, 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 28 February, 2006, 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.

Although petitioners' counsel states that the original Letters Patent was never received, petitioners have not provided

sufficient supporting documentation (*i.e*, a copy of the docket record or file jacket where the Letters Patent would have been entered had it been received must be attached to and referenced in practitioner's statement) showing that the original Letters Patent was not received.

Nevertheless, as petitioner has submitted the petition fee, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower 8C32 (FAX 571-270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Pamela A. Ruest, Esq.
McQuaide Blasko
811 University Drive
State College PA 16801-6699

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Jones et al. : DECISION ON
Application No. 10/426,733 : PETITION
Filed: April 30, 2003 :
Attorney Docket No. 120443-3 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 21, 2005, which is being treated as a request to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to timely and effectively respond to the Restriction Requirement mailed on May 20, 2004, which set a one (1) month extendable period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on January 7, 2005.

In the present petition, petitioner states that on June 3, 2004, petitioner submitted a reply in the form of an election. Accompanying the petition is a copy of the 2 page response.

> 37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the United States Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

After reviewing the papers submitted on petition, the response is considered timely filed on June 3, 2004. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby vacated. The application is restored to pending status in view of the fact that a response was timely submitted on June 3, 2004.

In view of the above, the $250.00 petition fee submitted is unnecessary and, as such, is refundable. Petitioner may request a refund of the $250.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The matter is being referred to the Technology Center Art Unit 1755.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/426,771	04/30/2003	Jun Watanabe	1776-4064US1	6950

27123 7590 05/06/2005

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER	
SELLERS, ROBERT E	

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG
Paper No. May 4, 2005

In re Application of Jun Watanabe
Serial No.: 10/426,771
Filed: April 30, 2003

DECISION ON PETITION
UNDER *37 CFR 1.48(b)*

For: POLYESTER BLOCK COPOLYMER COMPOSITIONS AND PROCESS FOR THE PREPARATION THEREOF

This is a decision on the PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED (37 C.F.R. ∋ 1.48(b), filed April 30, 2003 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Kazuya Kotani and Masanori Sakane from the present inventorship.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/5/08 Paper No.:

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/426771 Patent No: 7196123 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

"Second item only"

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: _____

_____

_____

_____

_____

_____ 1796
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

HEWLETT-PACKARD DEVELOPMENT COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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DEC 11 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Peng Wu :
Application No. 10/426,775 :
Filed: April 30, 2003 :
Attorney Docket No. 100111030-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit a corrected drawing in a timely manner in reply to the Notice of Allowance mailed December 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 16, 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 the required drawing; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the drawing is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of the unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Eileen Lehmann
Hewlett-Packard Company
Mail Stop 1197
1501 Page Mill Road
Palo Alto, CA 94304

UNITED STATES 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 - 8 2003

UR
PAPER NO. 3

In re Application of	:	
Michael R. Minor	:	
Serial Number: 10/426,782	:	PETITION UNDER
Filed: April 30, 2003	:	M.P.E.P.708.02, V,
For: METHOD AND APPARATUS FOR DUSTING	:	II, VI, X

This is in response to the petition filed, August 07, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V, II, VI and X) of the MPEP and 37 CFR 1.102(c) (**fee paid but not required**).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met (fee not required).

The request for Special Status under Section 708.02 (II) is denied because criteria under 37 CFR1.102 (c) has not been met by failing to provide copy of the search report.

The request for Special Status under Section 708.02 (VI) is denied because criteria under 37 CFR 1.102 (c) has not been met but for a general allegation of use.

The request for Special Status under Section 708.02 (X) is denied because criteria under 37 CFR 1.102 (c) has not been met by failing to explain how the invention contributes to countering terrorism.

Accordingly the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael R. Minor
P.O. Box 553
St. Peters, MO 63376-0010

UNITED STATES 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 A. Slavin
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens FL 33410

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JUL 17 2006

OFFICE OF PETITIONS Paper No. 8

In re Application of
George I. Smith et al.
Application No. 10/426,783
Attorney Docket No. 2428.001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 01, 2006, to revive the above-identified application.

The petition is **GRANTED**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 1, 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 of $750; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 31, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3712 for appropriate action on the concurrently filed amendment.

David A. 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
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DIW Jan-09

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-
SUITE 101
ELLICOTT CITY MD 21043

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FEB 12 2009

OFFICE OF PETITIONS

In re Patent Number: 6,733,328	:	
Issue Date: 05/11/2004	:	DECISION ON PETITION
Application Number:10/426,794	:	
Filing Date: 05/01/2003	:	
Attorney Docket Number: MR2849-37	:	

This is a decision on the "PETITION TO EXPUNGE ASSIGNMENT RECORD" filed September 9, 2008.

The petition is **DISMISSED**.

REVIEW OF FACTS

1. On May 1, 2003, the above-identified application was filed, naming Chen Che Lin and TE Kuang Wei as joint inventors.

2. On November 30, 2004, an assignment from joint Te Kuang Wei to Ultra Products Inc. was filed and recorded in the USPTO.

3. On May 11, 2004, the application issued as U.S. Patent No. 6,733,328.

4. On September 9, 2008, the present petition was filed, requesting that the assignment from inventor Te Kuang Wei to Ultra Products, Inc., be expunged.

With regard to the request to expunge the recorded assignment, MPEP 323.01(d) states:

> Petitions to correct, modify or "expunge" assignment records are rarely granted. Such petitions are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and

(B) the integrity of the assignment records will not be affected by granting the petition.

Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Assignment Services Division at the same reel and frame number, and the image will appear when someone views that reel and frame number. The Office will, however, delete the links to the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the Assignment Historical Database.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioners have not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

In particular, petitioner simply states that "First, pursuant to MPEP 32301(d), relief requested cannot be obtained through any of the applicable provisions of MPEP 323.01. The relief sought does not relate to a typographical error in the cover sheet or in the recorded assignment document. Nor does the relief sought relate to an improperly filed assignment, recorded by another person against the owner's application for patent."

CONCLUSION

1. For the reasons stated above the petition is **dismissed**.

Additionally, the required fee for the above petition is $400 which is being charged to deposit account no. 50-1561 as requested.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to Karen Creasy at (571) 272-3208.

David Buegl
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/29/06

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/426817** Patent No.: **7000357**

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**.

/AGreen/

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/David Dunn/

DAVID DUNN
SUPERVISORY PATENT EXAMINER
SPE

3636
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071001

DATE : October 1, 2007

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction on Patent No.: 7,000,357

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 reference to column 8, lines 57-58 appears to include a typographical error since the recitation "mounting ring 46a-46c" appears as "mounting ring 46a-46e" in the patent.

All other corrections are approved.

DAVID DUNN
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TECHNOLOGY CENTER 3600

Leong C. LEI
1867 Ygnacio Valley Road
PMB #1008
Walnut Creek CA

In re Application of :
Chun Hsiang Wang :
Application No. 10/426,866 :
Filed: May 01, 2003 :
For: HOSE CONNECTOR FOR HOSE OF :
A DUST COLLECTOR :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on March 28, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on June 23, 2004. A Notice of Abandonment was mailed on January 12, 2005.

Applicant's petition indicates that the Office action was never received. In support thereof applicant has provided a log of papers received. This is not considered to be a docket record.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around September 23, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed June 23, 2004 was not received or placed in the file for application 10/426,866. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around September 23, 2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed June 23, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

for

Randolph A Reese
Special Program Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rjc 07/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of

Chun Hsiang Wang

Application No. 10/426,866

Filed: May 1, 2003

Attorney Docket No. FP9465

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 final Office action mailed June 23, 2004, 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 September 24, 2004. A Notice of Abandonment was mailed on November 12, 2005.

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.

Examiner Dunwoody has determined that the amendment filed August 14, 2006, places the application in condition for allowance.

The application is being forwarded to Technology Center 3600, GAU 3679 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

OIPE JC154
JUN 18 2003
PATENT & TRADEMARK OFFICE

#13 0410 0420 6-12-03

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Docket No.: 231968US-2DIV

MAIL STOP: SPECIAL PROGRAM EXAMINER TC 2800
HONORABLE COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

RE: Application Serial No.: 10/426,871
Applicants: Yasushi NAKAZATO et al.
Filing Date: May 1, 2003
For: IMAGE FORMING APPARATUS
Group Art Unit: Unknown
Examiner: Not Yet Assigned

SIR:

Attached hereto for filing is the following paper:

Petition to Make Special Under MPEP § 708.02(VIII);
Information Disclosure Statement;
Form PTO-1449; Cited References (1).

Our check in the amount of -- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted document, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the above-listed document timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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OIPE JC154 JUN 18 2003 PATENT & TRADEMARK OFFICE

PATENT
Atty. Docket No. 231968US-2DIV

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:	:		
Yasushi NAKAZATO et al.	:	GROUP ART UNIT:	Unknown
SERIAL NO: 10/426,871	:	EXAMINER:	Not Yet Assigned
FILED: May 1, 2003	:		
FOR: IMAGE FORMING APPARATUS	:		

PETITION TO MAKE SPECIAL UNDER MPEP § 708.02(VIII)

MAIL STOP: SPECIAL PROGRAM EXAMINER, TC 2800
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

SIR:

I. Basis for the Petition

Pursuant to MPEP § 708.02(VIII) (8th ed. 2001, revised February 2003), Applicants hereby petition for a special status for this Application.

II. Requirements for Granting Special Status

MPEP § 708.02(VIII) established five requirements for a grant of special status for a new application (i.e., unexamined application).. The following subsections show that each of these five requirements is satisfied in the above-identified case.

A. Submit Petition and Fee: § 708.02(VIII)(A)

This petition is accompanied by the fee set forth in 37 C.F.R. § 1.17(h) to be paid by way of Deposit Account No. 15-0030.

B. Agree to an Election Without Traverse: § 708.02(VIII)(B)

Applicants submit that Claims 43-90, as presented in the Preliminary Amendment of May 1, 2003, are directed to a single, patentable invention. If a restriction requirement is imposed in this Application, Applicants agree to elect without traverse for purposes of expediting the prosecution of this petitioned case.

C. State that a Preexamination Search was Made: § 708.02(VIII)(C)

Applicants conducted a search at the United States Patent and Trademark Office for references having priority or publication dates no later than May 5, 1999.[1] Patent classifications searched include 347 (incremental printing of symbolic information), subclasses 107, 110-113, 118, 124 and 126, and class 399 (electrophotography), subclasses 138, 152, 245 and 263. In carrying out the search, Applicants sought to identify image forming apparatuses or the like including a plurality of vertically disposed image forming cartridges mounted to an apparatus body which specifically provided at least one vertical structural member, such as a stay, which partitions off a space between the image forming cartridges and optical writing means, as recited in the claims. As such, a key-word computer text search was conducted on the Examiner Automated Search Tools/Web Base Examiner Search Tool (EAST/WEST), BRS Database and Patent Image Retrieval System.

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[1] The present Application is a divisional application of Application Serial No. 10/160,066, filed on June 4, 2002, which is a continuation application of U.S. Patent No. 6,400,917, filed March 14, 2001, which is a divisional application of U.S. Patent No. 6,236,820, filed May 5, 1999.

This search qualifies as a pre-examination search because the present Application has not been examined on the merits, and because the search methodology entailed searching by key-word and patent class in accordance with the subject matter of the disclosure.

D. Submit a Copy of the Most Relevant References: § 708.02(VIII)(D)

References deemed most relevant to the present claims were provided in the Information Disclosure Statement, filed May 1, 2003. In addition to the prior art already cited, a further reference identified in the Applicants' search is included in an Information Disclosure Statement attached hereto. All references now of record, including the reference attached hereto, are discussed below with reference to the claimed subject matter of Claims 43-90.[2]

E. Submit a Detailed Discussion of the References, Pointing Out How the Claimed Subject Matter is Patentable Over the References: § 708.02(VIII)(E)

Consistent with the search conducted by the Applicants, as well as references of record in this case as submitted by the Information Disclosure Statement of May 1, 2003, Applicants respectfully submit that the claims of the Application patentably distinguish over all of the references of record. Reasons for the patentability being provided below.

Applicants' Claim 43 recites, *inter alia*, an image forming apparatus including:

> ". . . a vertical stay disposed between the plurality of image forming cartridges and optical writing devices and including slots configured to allow the light beams emitted from the plurality of optical

[2] Applicants note that U.S. Patent Nos. 6,236,820 and 6,400,917 of the IDS of May 1, 2003, are related to the present Application, therefore, these references will not be discussed.

writing devices to pass therethrough to the plurality of image forming cartridges."

By way of background, it is known to provide an image forming apparatus with a plurality of image forming cartridges removably mounted with respect to the apparatus in a vertical, stacked configuration. In this configuration, the removable cartridges must be positioned in a stable manner with respect to the apparatus body in order to avoid an instability in operation caused by the vibration of the cartridges during operation. Such vibration results in "banding," which is expressed in an output image from the device due to the vibration of the imaging components therein.[3]

U.S. Patent No. 5,848,329[4] (Aoyama et al., hereinafter Aoyama) discloses an image forming apparatus having a mounting/dismounting apparatus which enables the accurate placement of individual processing units. The apparatus includes a sheet-feed unit (1) for providing a paper sheet to the apparatus. A sheet provided from the sheet-feed unit is oriented in the horizontal position by a horizontal registration unit (2) and conveyed to a registration sensor (3).[5] This sheet is provided from the registration sensor by a conveying means (101) for sequentially conveying the sheet past image transfer points of process units (102). Once images have been provided to a sheet, a fixing unit (9) fixes the image on the sheet by applying heat and pressure to the sheet.

Vertically stacked process units are supported by support members (14a) and (14b) when the unit is mounted in the apparatus body. A positioning mechanism, including holes (16), and pin (317) is provided such that the pin of a process unit can be mated with the

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[3] Application at pages 1-2.

[4] IDS of May 1, 2003.

[5] Aoyama at column 8, lines 38-44; Fig. 4.

respective hole. Thus, the positioning mechanism positions the process unit relative to the support members in the vicinity of the shaft of the drum. Process units can therefore be accurately positioned relative to the apparatus body.[6] In this way, an individual process unit can be supported by the apparatus body independently of the other process units such that only the desired process unit can be mounted and/or dismounted without the need to remove all of the units.

Aoyama does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,953,559[7] (Obu) discloses a device and method for forming full-color images to avoid excess toner build-up inside the device. The device includes four vertically stacked image-formation units (3a-3d) and a sheet-conveyor transfer unit (4).[8] Each of the image formation units generates an image in a respective color by way of a liquid development agent and includes optical drawing units (13) for providing light to create an electrostatic latent image upon a charge roller (12).[9]

Obu does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing

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[6] Aoyama at column 9, lines 42-58.

[7] IDS of May 1, 2003.

[8] Obu at column 4, lines 2-3.

[9] Obu at Fig. 3

devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 6,191,801[10] (Hiraoka et al., hereinafter Hiraoka) discloses a color electrophotographic apparatus of a reduced dimension having image registration. The apparatus includes a flexible photo conductor or belt (100) for carrying a sheet to receive images from print stations (106-112). Laser beam scanners (122-128) are vertically stacked and provided for emitting laser beams (130-136) to scan the surface of the photoconductor in a direction perpendicular to the moving direction of the photoconductor as the laser beams are reflected by rotating polygon mirrors (150-156).[11]

Hiraoka does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 6,249,305[12] (Miyamoto et al., hereinafter Miyamoto) discloses a color image forming apparatus for reducing a paper path for avoiding paper-jamming. The apparatus includes an image carrier cartridge (2) which includes a belt-shaped image carrier (1) for receiving image signals from a corresponding one of the developing

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[10] IDS of May 1, 2003.

[11] Hiraoka at column 10, lines 20-27; Fig. 5.

[12] IDS of May 1, 2003.

sections (42-43, 45 and 47) which are vertically stacked interior to the apparatus. Exposure sections (25, 27, 29 and 31) form a latent image by the use of a laser beam incident to the belt-shaped image carrier. A laser beam reflected from a corresponding one of the exposure sections is reflected by movement of a polygon mirror (37), and conducts scanning exposure for the photoreceptor of the belt-shaped image carrier through a lense (39) and cylindrical lense (41).[13]

Miyamoto does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,208,640[14] (Horie et al., hereinafter Horie) discloses an image recording apparatus for reducing the amount of required installation space. The apparatus includes vertically stacked record units (30) for providing a latent image to a sheet of a conveyance system (60).[15] As shown in more detail in Fig. 4, a recording unit includes a photosensitive drum (41), a charging unit (42) and a raster output scanner (43). The raster output scanner provides laser beams for deflection by a polygon mirror (43a) in the direction of a scan. The laser beams are applied via lenses (43b) and (43c) to an exposure position (E1) of the photosensitive drum.

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[13] Miyamoto at column 16, lines 3-32; Fig. 1.

[14] IDS of May 1, 2003.

[15] Horie at Fig. 3.

Horie does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,752,137[16] (Haneda) discloses a multi-color forming apparatus having a plurality of detachable exposure devices for facilitating service of the apparatus. The apparatus includes a belt photoreceptor (10) wound around a drive roller (1), driven rollers (2) and (3), a tension roller (4) and a supporting member (50). The supporting member is provided between the drive roller and the driven roller to press the photoreceptor (10) for presentment to developing devices (13Y), (13M), (13C) and (13K); it is not a structural support or vertical stay as recited in Applicants' claims. The supporting member includes scanning holes (51Y), (51M), (51C) and (51K). Optical systems (12Y), (12M), (12C) and (12K) provide light beams to the developing devices such that electrostatic latent images of each developing device can be provided to the belt photoreceptor.

Haneda does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

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[16] IDS of May 1, 2003.

U.S. Patent No. 5,787,324[17] (Iwasaki) discloses an image forming apparatus having a plurality of vertically stacked and spaced image forming units. The apparatus includes scanners (3-6) for providing a light beam to a corresponding one of cartridges (7-10).[18] The cartridges are vertically disposed in the apparatus and spacing is maintained between the cartridges by supporting members (11a-14a).[19]

Iwasaki does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,907,749[20] (Nomura et al., hereinafter Nomura) discloses a process cartridge for use with an image forming apparatus. The process cartridge includes an image bearing member (10) which cooperates with a developing device (11), a charger (12) and a cleaning device (13) for providing a latent image to a carrier medium.[21] Above the process cartridge, a short focus optical element array (24) is positioned for providing an exposure signal of an illumination lamp (23).

Nomura does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing

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[17] IDS of May 1, 2003.

[18] Iwasaki at Fig. 1; column 4, lines 4-16.

[19] Iwasaki at column 4, lines 39-43.

[20] IDS of May 1, 2003.

[21] Nomura at column 3, lines 36-56; Fig. 3.

devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,842,095[22] (Kitamura) discloses an image forming device employing multiple image forming units for reducing an overall size of the device. The device includes a plurality of image forming units (2) oriented along a copy material transport path (1) for providing light beams to a corresponding one of a transport copying means (5).[23] The specific positioning of the transport copying means relative to the image forming units and transport path is disclosed for achieving a greater compactness in design.

Kitamura does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

As can be appreciated from the above discussion, the claimed subject matter recited in the claims is directed to an image forming apparatus employing a vertical stay for effectively obviating banding caused by the vibration of image forming cartridges and optical writing means and structural components of the apparatus to which they are fixed.[24] Applicants submit that none of the references of record, neither alone or in combination,

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[22] IDS filed herewith..

[23] Kitamura at Fig. 1a; column 3, line 66 through column 4, line 13.

[24] Application at page 55, lines 1-5.

disclose or suggest Claim 43. As Claims 44-90 recite substantially the same limitations discussed above by virtue of dependency and/or independent recitation, Claims 44-90 are believed to be allowable at least for the same reasons discussed above. Therefore, Applicants respectfully submit that the limitations defined by pending Claims 43-90 patentably distinguish over the references of record.

III. Conclusion

This Petition to Make Special meets all the requirements of M.P.E.P. § 708.02 (VIII), and therefore, should be granted. Accordingly, Applicants respectfully request that this Application be advanced out of turn for examination, and that the assigned Examiner, pursuant to the suggestions of M.P.E.P. § 708.02 (VIII), contact the undersigned to schedule an interview for advancing the prosecution of this case.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

22850

James J. Kulbaski
Registration No. 34,648
Attorney of Record

Scott A. McKeown
Registration No. 42,866

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Duplicate of Paper #3 filed 6/18/03

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RE: Application Serial No.: 10/426,871
Applicants: Yasushi NAKAZATO et al.
Filing Date: May 1, 2003
For: IMAGE FORMING APPARATUS
Group Art Unit: Unknown
Examiner: Not Yet Assigned

SIR:

Attached hereto for filing is the following paper:

Petition to Make Special Under MPEP § 708.02(VIII);
Information Disclosure Statement;
Form PTO-1449; Cited References (1).

Our check in the amount of -- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted document, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the above-listed document timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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PATENT
Atty. Docket No. 231968US-2DIV

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:		:	
Yasushi NAKAZATO et al.		:	GROUP ART UNIT: Unknown
SERIAL NO:	10/426,871	:	EXAMINER: Not Yet Assigned
FILED:	May 1, 2003	:	
FOR:	IMAGE FORMING APPARATUS	:	

COPY

PETITION TO MAKE SPECIAL UNDER MPEP § 708.02(VIII)

MAIL STOP: SPECIAL PROGRAM EXAMINER, TC 2800
COMMISSIONER FOR PATENTS
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ALEXANDRIA, VIRGINIA 22313-1450

SIR:

I. Basis for the Petition

Pursuant to MPEP § 708.02(VIII) (8th ed. 2001, revised February 2003), Applicants hereby petition for a special status for this Application.

II. Requirements for Granting Special Status

MPEP § 708.02(VIII) established five requirements for a grant of special status for a new application (i.e., unexamined application).. The following subsections show that each of these five requirements is satisfied in the above-identified case.

A. Submit Petition and Fee: § 708.02(VIII)(A)

This petition is accompanied by the fee set forth in 37 C.F.R. § 1.17(h) to be paid by way of Deposit Account No. 15-0030.

B. Agree to an Election Without Traverse: § 708.02(VIII)(B)

Applicants submit that Claims 43-90, as presented in the Preliminary Amendment of May 1, 2003, are directed to a single, patentable invention. If a restriction requirement is imposed in this Application, Applicants agree to elect without traverse for purposes of expediting the prosecution of this petitioned case.

C. State that a Preexamination Search was Made: § 708.02(VIII)(C)

Applicants conducted a search at the United States Patent and Trademark Office for references having priority or publication dates no later than May 5, 1999.[1] Patent classifications searched include 347 (incremental printing of symbolic information), subclasses 107, 110-113, 118, 124 and 126, and class 399 (electrophotography), subclasses 138, 152, 245 and 263. In carrying out the search, Applicants sought to identify image forming apparatuses or the like including a plurality of vertically disposed image forming cartridges mounted to an apparatus body which specifically provided at least one vertical structural member, such as a stay, which partitions off a space between the image forming cartridges and optical writing means, as recited in the claims. As such, a key-word computer text search was conducted on the Examiner Automated Search Tools/Web Base Examiner Search Tool (EAST/WEST), BRS Database and Patent Image Retrieval System.

---

[1] The present Application is a divisional application of Application Serial No. 10/160,066, filed on June 4, 2002, which is a continuation application of U.S. Patent No. 6,400,917, filed March 14, 2001, which is a divisional application of U.S. Patent No. 6,236,820, filed May 5, 1999.

This search qualifies as a pre-examination search because the present Application has not been examined on the merits, and because the search methodology entailed searching by key-word and patent class in accordance with the subject matter of the disclosure.

D. Submit a Copy of the Most Relevant References: § 708.02(VIII)(D)

References deemed most relevant to the present claims were provided in the Information Disclosure Statement, filed May 1, 2003. In addition to the prior art already cited, a further reference identified in the Applicants' search is included in an Information Disclosure Statement attached hereto. All references now of record, including the reference attached hereto, are discussed below with reference to the claimed subject matter of Claims 43-90.[2]

E. Submit a Detailed Discussion of the References, Pointing Out How the Claimed Subject Matter is Patentable Over the References: § 708.02(VIII)(E)

Consistent with the search conducted by the Applicants, as well as references of record in this case as submitted by the Information Disclosure Statement of May 1, 2003, Applicants respectfully submit that the claims of the Application patentably distinguish over all of the references of record. Reasons for the patentability being provided below.

Applicants' Claim 43 recites, *inter alia*, an image forming apparatus including:

> ". . . a vertical stay disposed between the plurality of image forming cartridges and optical writing devices and including slots configured to allow the light beams emitted from the plurality of optical

[2] Applicants note that U.S. Patent Nos. 6,236,820 and 6,400,917 of the IDS of May 1, 2003, are related to the present Application, therefore, these references will not be discussed.

writing devices to pass therethrough to the plurality of image forming cartridges."

By way of background, it is known to provide an image forming apparatus with a plurality of image forming cartridges removably mounted with respect to the apparatus in a vertical, stacked configuration. In this configuration, the removable cartridges must be positioned in a stable manner with respect to the apparatus body in order to avoid an instability in operation caused by the vibration of the cartridges during operation. Such vibration results in "banding," which is expressed in an output image from the device due to the vibration of the imaging components therein.[3]

U.S. Patent No. 5,848,329[4] (Aoyama et al., hereinafter Aoyama) discloses an image forming apparatus having a mounting/dismounting apparatus which enables the accurate placement of individual processing units. The apparatus includes a sheet-feed unit (1) for providing a paper sheet to the apparatus. A sheet provided from the sheet-feed unit is oriented in the horizontal position by a horizontal registration unit (2) and conveyed to a registration sensor (3).[5] This sheet is provided from the registration sensor by a conveying means (101) for sequentially conveying the sheet past image transfer points of process units (102). Once images have been provided to a sheet, a fixing unit (9) fixes the image on the sheet by applying heat and pressure to the sheet.

Vertically stacked process units are supported by support members (14a) and (14b) when the unit is mounted in the apparatus body. A positioning mechanism, including holes (16), and pin (317) is provided such that the pin of a process unit can be mated with the

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[3] Application at pages 1-2.

[4] IDS of May 1, 2003.

[5] Aoyama at column 8, lines 38-44; Fig. 4.

respective hole. Thus, the positioning mechanism positions the process unit relative to the support members in the vicinity of the shaft of the drum. Process units can therefore be accurately positioned relative to the apparatus body.[6] In this way, an individual process unit can be supported by the apparatus body independently of the other process units such that only the desired process unit can be mounted and/or dismounted without the need to remove all of the units.

Aoyama does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,953,559[7] (Obu) discloses a device and method for forming full-color images to avoid excess toner build-up inside the device. The device includes four vertically stacked image-formation units (3a-3d) and a sheet-conveyor transfer unit (4).[8] Each of the image formation units generates an image in a respective color by way of a liquid development agent and includes optical drawing units (13) for providing light to create an electrostatic latent image upon a charge roller (12).[9]

Obu does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing

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[6] Aoyama at column 9, lines 42-58.

[7] IDS of May 1, 2003.

[8] Obu at column 4, lines 2-3.

[9] Obu at Fig. 3

devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 6,191,801[10] (Hiraoka et al., hereinafter Hiraoka) discloses a color electrophotographic apparatus of a reduced dimension having image registration. The apparatus includes a flexible photo conductor or belt (100) for carrying a sheet to receive images from print stations (106-112). Laser beam scanners (122-128) are vertically stacked and provided for emitting laser beams (130-136) to scan the surface of the photoconductor in a direction perpendicular to the moving direction of the photoconductor as the laser beams are reflected by rotating polygon mirrors (150-156).[11]

Hiraoka does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 6,249,305[12] (Miyamoto et al., hereinafter Miyamoto) discloses a color image forming apparatus for reducing a paper path for avoiding paper-jamming. The apparatus includes an image carrier cartridge (2) which includes a belt-shaped image carrier (1) for receiving image signals from a corresponding one of the developing

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[10] IDS of May 1, 2003.

[11] Hiraoka at column 10, lines 20-27; Fig. 5.

[12] IDS of May 1, 2003.

sections (42-43, 45 and 47) which are vertically stacked interior to the apparatus. Exposure sections (25, 27, 29 and 31) form a latent image by the use of a laser beam incident to the belt-shaped image carrier. A laser beam reflected from a corresponding one of the exposure sections is reflected by movement of a polygon mirror (37), and conducts scanning exposure for the photoreceptor of the belt-shaped image carrier through a lense (39) and cylindrical lense (41).[13]

Miyamoto does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,208,640[14] (Horie et al., hereinafter Horie) discloses an image recording apparatus for reducing the amount of required installation space. The apparatus includes vertically stacked record units (30) for providing a latent image to a sheet of a conveyance system (60).[15] As shown in more detail in Fig. 4, a recording unit includes a photosensitive drum (41), a charging unit (42) and a raster output scanner (43). The raster output scanner provides laser beams for deflection by a polygon mirror (43a) in the direction of a scan. The laser beams are applied via lenses (43b) and (43c) to an exposure position (E1) of the photosensitive drum.

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[13] Miyamoto at column 16, lines 3-32; Fig. 1.

[14] IDS of May 1, 2003.

[15] Horie at Fig. 3.

Horie does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,752,137[16] (Haneda) discloses a multi-color forming apparatus having a plurality of detachable exposure devices for facilitating service of the apparatus. The apparatus includes a belt photoreceptor (10) wound around a drive roller (1), driven rollers (2) and (3), a tension roller (4) and a supporting member (50). The supporting member is provided between the drive roller and the driven roller to press the photoreceptor (10) for presentment to developing devices (13Y), (13M), (13C) and (13K); it is not a structural support or vertical stay as recited in Applicants' claims. The supporting member includes scanning holes (51Y), (51M), (51C) and (51K). Optical systems (12Y), (12M), (12C) and (12K) provide light beams to the developing devices such that electrostatic latent images of each developing device can be provided to the belt photoreceptor.

Haneda does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

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[16] IDS of May 1, 2003.

U.S. Patent No. 5,787,324[17] (Iwasaki) discloses an image forming apparatus having a plurality of vertically stacked and spaced image forming units. The apparatus includes scanners (3-6) for providing a light beam to a corresponding one of cartridges (7-10).[18] The cartridges are vertically disposed in the apparatus and spacing is maintained between the cartridges by supporting members (11a-14a).[19]

Iwasaki does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,907,749[20] (Nomura et al., hereinafter Nomura) discloses a process cartridge for use with an image forming apparatus. The process cartridge includes an image bearing member (10) which cooperates with a developing device (11), a charger (12) and a cleaning device (13) for providing a latent image to a carrier medium.[21] Above the process cartridge, a short focus optical element array (24) is positioned for providing an exposure signal of an illumination lamp (23).

Nomura does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing

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[17] IDS of May 1, 2003.

[18] Iwasaki at Fig. 1; column 4, lines 4-16.

[19] Iwasaki at column 4, lines 39-43.

[20] IDS of May 1, 2003.

[21] Nomura at column 3, lines 36-56; Fig. 3.

devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

U.S. Patent No. 5,842,095[22] (Kitamura) discloses an image forming device employing multiple image forming units for reducing an overall size of the device. The device includes a plurality of image forming units (2) oriented along a copy material transport path (1) for providing light beams to a corresponding one of a transport copying means (5).[23] The specific positioning of the transport copying means relative to the image forming units and transport path is disclosed for achieving a greater compactness in design.

Kitamura does not disclose or suggest an image forming apparatus in which a vertical stay is disposed between the plurality of image forming cartridges and optical writing devices and includes slots configured to allow the light beams emitted form the plurality of optical writing devices to pass therethrough to the plurality of image forming cartridges for the purposes of reducing vibration in the apparatus to eliminate banding as recited in Applicants' Claim 43.

As can be appreciated from the above discussion, the claimed subject matter recited in the claims is directed to an image forming apparatus employing a vertical stay for effectively obviating banding caused by the vibration of image forming cartridges and optical writing means and structural components of the apparatus to which they are fixed.[24] Applicants submit that none of the references of record, neither alone or in combination,

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[22] IDS filed herewith..

[23] Kitamura at Fig. 1a; column 3, line 66 through column 4, line 13.

[24] Application at page 55, lines 1-5.

disclose or suggest Claim 43. As Claims 44-90 recite substantially the same limitations discussed above by virtue of dependency and/or independent recitation, Claims 44-90 are believed to be allowable at least for the same reasons discussed above. Therefore, Applicants respectfully submit that the limitations defined by pending Claims 43-90 patentably distinguish over the references of record.

III. Conclusion

This Petition to Make Special meets all the requirements of M.P.E.P. § 708.02 (VIII), and therefore, should be granted. Accordingly, Applicants respectfully request that this Application be advanced out of turn for examination, and that the assigned Examiner, pursuant to the suggestions of M.P.E.P. § 708.02 (VIII), contact the undersigned to schedule an interview for advancing the prosecution of this case.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

22850

James J. Kulbaski
Registration No. 34,648
Attorney of Record

Scott A. McKeown
Registration No. 42,866

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Paper No. 4

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OCT 2 2003

In re Application of :
Yasushi Nakazato et al. :
Application No. 10/426,871 : DECISION ON PETITION
Filed: May 1, 2003 : TO MAKE SPECIAL
Attorney Docket No. 231968US-2DIV :

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 18, 2003, to make the above-identified application special. The petition was resubmitted, via facsimile transmission, August 19, 2003.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Tyco Electronics Corporation
Intellectual Property Law Department
M/S R20/2B
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Menlo Park, CA 94026-1164

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OFFICE OF PETITIONS

In re Application of :
Roy K. Thompson, et al. :
Application No. 10/426,892 : DECISION GRANTING
Filed: April 30, 2003 : PETITION
Attorney Docket No. NC071-US1/5487-139 :

This is a decision on the petition filed August 7, 2003, requesting that the above-identified application be accorded a filing date of April 30, 2003, rather than the presently accorded date of May 1, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on April 30, 2003 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV193585526US bears an illegible "date-in," it also includes a USPS receipt date stamp of April 30, 2003. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is April 30, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPS' Express Mail Track and Confirm database was made and confirms that the package bearing Express Mail label No. EV193585526US was accepted on "April 30, 2003, 5:57 pm, RALEIGH, NC 27612." A copy of the results is attached herewith.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to April 30, 2003.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Attachment: USPS Express Mail Track and Confirm Results

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OFFICE OF PETITIONS

In re Application of

Eric B. Cole
Application No. 10/426,908
Filed: April 29, 2003
Attorney Docket No. 1862

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on September 26, 2006.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sytex, Inc.**
c/o Barbara Loscalzo
Vice President and General Counsel
Lockheed Martin Information & Technology Services
2339 Route 70 West
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OFFICE OF PETITIONS

KONNEKER & SMITH P. C.
660 NORTH CENTRAL EXPRESSWAY
SUITE 230
PLANO, TX 75074

In re Application of	:	DECISION ON PETITION
Curtis et al.	:	
Application No. 10/426,719	:	
Filed: April 30, 2003	:	
Atty Docket No.:	:	
2002-IP-008851 U1 USA	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed September 14, 2004.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed July 21, 2003. The Notice required the basic filing fee; an executed oath or declaration and a late filing fee oath or declaration surcharge, and additional claims fees. The Notice set a two (2) month period for reply 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 September 22, 2003. A Notice of Abandonment was mailed September 9, 2004.

Applicant files the instant petition, executed oath/declaration and the appropriate fees

It is noted that the basic filing fee has increased $20.00 to $770.00. Deposit account 11-1543 has been charged the additional $20.00 as authorized in the Preliminary Amendment filed June 16, 2003.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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DELPHI TECHNOLOGIES INC
M/C 480-410-202
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TROY MI 48007

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OFFICE OF PETITIONS

In re Application of	:	
Gernert, et al.	:	DECISION ACCORDING STATUS
Application No. 10/426,926	:	UNDER 37 CFR 1.47(a)
Filed: April 30, 2003	:	
Attorney Docket No. DP-306958	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 23, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on April 30, 2003, without an executed oath or declaration. Accordingly, on June 24, 2003, the Initial Patent Examination Division mailed a Notice to File Missing Parts on Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing, the statutory basic filing fee, and additional claims fees.

In reply, applicant filed the instant petition on October 23, 2004, made timely with a two month extension of time. Accompanying the petition was a declaration executed by inventors Klaus Gernert and Peter Weyand, with the signature block for inventor Sami Ruotsalainen left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that Ruotsalainen made an oral refusal to sign the declaration, after having been presented with the application papers, during a phone conversation on October 9, 2003.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the $130 petition fee is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SHEMWELL MAHAMEDI LLP
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OFFICE OF PETITIONS

In re Application of
FJELSTAD, Joseph C. et al.
Application No. 10/426,930
Filed: April 29, 2003
Attorney Docket No. **SIPI.P1**

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to SHEMWELL MAHAMEDI LLP has been revoked by the assignee of the patent application on March 28, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RONALD R. SHEA**
6244 ROYAL OAK COURT
SAN JOSE, CA 95123

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OFFICE OF PETITIONS

In re Application of :
William M. Sherk Jr. et al :
Application No. 10/426,948 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. MIP 0001 PA :

This is a decision on the petition under 37 CFR 1.313, filed February 10, 2006 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue "in order to permit the Examiner to consider dependent claims 16, 23 through 34 and 43 that were withdrawn during a February 11, 2005 telephonic election of species requirement." The issue fee was paid in this application on December 5, 2005.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
>
> (2) Consideration of a submission pursuant to 37 CFR 1.114; or
>
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

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 inquires related to this decision should be directed to the undersigned at (571) 272-3210.

The matter is being referred to the Office of Patent Publication.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John D. Reed
Dinsmore & Shohl LLP
One Dayton Centre
One South Main Street, Suite 1300
Dayton, OH 45402-2023

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki, et al. :
Application No. 10/426,950 : ON PETITION
Filed: May 1, 2003 :
Attorney Docket No. 740756-2605 :

This is a decision on the petition, filed June 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON, DC 20043-9998

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In re Application of :
Crider, et al. : DECISION
Application No. 10/426,964 :
Filed: May 1, 2003 :
Atty. Dkt. No.: 29953-186557 :

This is a decision on the "Request for PTA Calculation Review" filed October 28, 2004.

Applicants are advised that review of any determination of patent term adjustment requires the submission of an application for patent term adjustment in accordance with 37 CFR 1.705(b) or 1.705(d) and the required application fee, currently, $200.00.

The instant request fails to comply with the requirements for reconsideration of patent term adjustment. Therefore, the instant "Request for PTA Calculation Review" hereby **DISMISSED**.

This application is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/26/07

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/426975** Patent No.: **7074039**

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**.

/A Green/

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: It seems that a Certificate of Correction or a Reissue may not correct this deficiency since it is a late claim according to 35 USC 119(e) and MPEP 1402.

Cris L Rodriguez — SPE

3732 — Art Unit

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Commissioner for Patents
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NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

In re Application of:
Kopelman et al.
Serial No.: 10/426,975
Filed: May 1, 2003
Docket: 25439
Title: METHOD AND SYSTEM FOR ASSESSING THE OUTCOME OF AN ORTHODONTIC TREATMENT

DECISION ON PETITION FOR ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 37 CFR 1.181(a)

This is a decision on the petition filed June 17, 2008 requesting the issuance of a Certificate of Correction due to USPTO error. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for this petition.

The petition is **DISMISSED**.

The record, in pertinent part, shows that:

1. The application was filed on May 1, 2003. A 35 USC 119(e) priority claim was filed in a document labeled "FORM PTO-1082". Petitioners assert that this document was an Application Data Sheet (ADS) that was inaccurately labeled as "U. S. PTO Form-1082".
2. A Notice of Allowance was mailed on March 28, 2006.
3. US Patent 7,074,039 issued July 11, 2006.
4. On November 1, 2006, a Request for Certificate of Correction was filed requesting that the 35 USC 119(e) priority claim submitted on May 1, 2003 be inserted, and also requesting correction of a typographical error in the application.
5. On Nov. 29, 2006, the Request for Certificate of Correction was approved in part; the portion of the request relating to the 35 USC 119(e) priority claim was not approved.
6. On Dec. 12, 2006, a Request for Certificate of Correction was filed, again requesting that the 35 USC 119(e) priority claim submitted on May 1, 2003 be inserted and also requesting correction of a typographical error in the application.
7. On Jan. 4, 2007, the Dec. 12 2006, a Request for Certificate of Correction was approved with respect to the typographical error but not with regard to the 35 USC 119(e) priority claim.
8. On Jan. 19, 2007, a Request for Certificate of Correction was filed requesting that the 35 USC 119(e) priority claim submitted on May 1, 2003 be inserted.
9. On Jan. 30, 2007, a Certificate of Correction was issued addressing the typographical error.
10. On May 21, 2007, the Request for Certificate of Correction requesting that the 35 USC 119(e) priority claim submitted on May 1, 2003 be inserted was denied.

11. On June 17, 2008, the present petition, requesting the issuance of a Certificate of Correction for the 35 USC 119(e) priority claim submitted May 1, 2003, was filed.

Discussion and Analysis

Petitioners state they timely presented their priority claim under 35 USC 119(e) on the application filing date of May 1, 2003. The priority claim was to U.S. Provisional Application 60/377,325 and that the failure to acknowledge that claim for priority was due to error by the Office. In support of their conclusion, petitioners have submitted a petition under 37 CFR §1.181, a page labeled as a "Filing Receipt" and stamped by OIPE on May 1, 2003, and a paper labeled "Form PTO-1082."

As petitioners acknowledge, the priority claim was included in a form that was improperly labeled. The form was labeled "FORM PTO-1082", and as "PTO Form-1082" on the "Filing Receipt" sheet. Petitioners state that the Form-1082 was an Application Data Sheet (ADS).

Further review of the application file reveals applicants also stated a priority claim in the declaration. However, the specification did not include a statement about the priority claim to a provisional application.

While petitioners attempted to present a priority claim under 35 USC 119(e), they failed to meet the minimum requirements for doing so. Namely, they did not include a statement on the first line of the specification and/or they did not file an ADS with a priority claim under 35 USC 119(e). The paper upon which applicants are relying and have identified as an ADS appears to be a transmittal letter. A transmittal letter does not comply with the requirements set forth by 37 CFR § 1.76. Further, the Office has a long standing policy that a transmittal letter cannot contain a preliminary amendment, so the inclusion of the benefit claim on page 2 of the "Form-1082" cannot be considered an amendment to the specification.

In addition, petitioners' "Filing Receipt" is actually a document created by applicants. The Office mails to applicants an official filing receipt in compliance with 37 CFR 1.54(b). On this form, the Office notifies applicants whether the benefit claim under 35 USC 119(e) has been recognized or not. Petitioners did not submit a copy of a filing receipt with this petition.

MPEP 201.11 (D) states, in pertinent part:

> If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt. If, however, a claim is not included in the first sentence(s) of the specification or in an ADS and is not recognized by the Office as shown by its absence on the filing receipt, the Office will require a petition under 37 CFR 1.78(a) and the surcharge to correct the claim.

MPEP 1481.03, states:

> Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.

It is noted that the Notice of Allowance was mailed on March 28, 2006, the Issue Fee was paid on May 25, 2006, and the patent was issued on July 11, 2006. Applicants did not notify the Office of the missing priority claim until November 1, 2006, which was not during the pendency with the nonprovisional application.

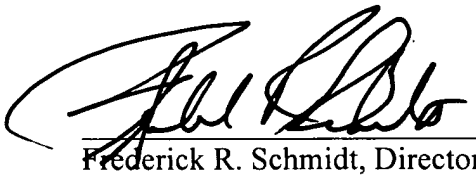
Accordingly, petitioners' mistake of the 35 USC 119(e) priority claim being filed in an inaccurately labeled document cannot be corrected with either a petition or through a Certificate of Correction. Applicants may wish to consider filing a reissue application to correct any errors in the patent made without any deceptive intention. (See MPEP 1402.)

Conclusion

The present petition seeks to correct the applicants' mistake of mislabeling the document with the 35 USC 119(e) priority claim, after the patent has been granted, via a Certificate of Correction. The request cannot be granted, pursuant to MPEP 1481.03 or 37 CFR § 1.78(a).

Accordingly, the petition is **dismissed**.

Petitioners may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. Should petitioner have any further questions, please contact TC 3700 SPRE Henry Yuen at 571-272-4856.



Frederick R. Schmidt, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products and Designs

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Paper No. 6

JOEL S. GOLDMAN, ESQ.
GOLDMAN IP LAW
ONE LAKESIDE COMMONS, SUITE 990
990 HAMMOND DRIVE
ATLANTA, GA 30328

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OFFICE OF PETITIONS

In re Application of :
Greg Burnette :
Application No. 10/426,984 :
Filed: April 29, 2003 : ON PETITION
Title of Invention: :
CEILING PANEL SYSTEM :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed March 25, 2004 (Certificate of Mailing dated March 23, 2004), to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed June 26, 2003. The Notice required replacement drawings in compliance with 37 CFr 1.84 and 37 CFR 1.121. The Notice set a two (2) month period for reply 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 on August 27, 2003.

With the instant Petition, Petitioner has filed replacement drawings in response to the Notice and satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

The application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Patent No. 7,401,961 :
Issued: July 22, 2008 :
Application No. 10/426,985 : ON PETITION
Filed: May 1, 2003 :
Attorney Docket No. 034183/262406 :

This is a decision on the petition, filed November 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the second assignee's name on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that a corrective assignment changing the second assignee's name from "Huber + Schner AG" to "Huber + Suhner AG" was recorded on November 19, 2008, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

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OFFICE OF PETITIONS

In re Application of	:	
Gholam-Reza Zadno-Azizi	:	
Application No. 10/427,000	:	DECISION GRANTING PETITION
Filed: April 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PERCUS.009C4	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 4, 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 March 19, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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FEB 03 2004

OFFICE OF PETITIONS

Walter L. Beavers
326 South Eugene Street
Greensboro NC 27401

In re Application of :
Merle R. Ellis :
Application No. 10/427,002 : DECISION GRANTING PETITION
Filed: May 1, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 00521-03 :

This is a decision on the petition, filed January 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 26, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being referred to Technology Center Art Unit 2859 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Rochelle Lieberman
LIEBERMAN & BRANDSDORFER, LLC
802 Still Creek Lane
Gaithersburg, MD 20878-3218

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Technology Center 2100

In re Application of:
SEEGER et al.
Appl. No.: 10/427,036
Filed: April 29, 2003
For: MOUNTED FILESYSTEM INTEGRITY CHECKING AND SALVAGE

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 17 July 2006, to expunge the Final Office Actions dated 23 May 2006 and 05 June 2006 in application.

The petition is **GRANTED-IN-PART**.

Petitioner seeks relief from an unfortunate remark made by the examiner in the Final Office Actions dated 23 May 2006 and 05 June 2006.

A review of the aforementioned Office Actions, it reveals that the Final Office Action dated 23 May 2006 does in fact contain terminologies that has no place in the record of this application and the Final Office Action dated 05 June 2006 does not contain the alleged terminology as stated in the instant petition. Thus, the Final Office Action dated 23 May 2006 is hereby expunged and removed from the application, and the Final Office Action dated 05 June 2006 shall not be expunged.

Since the instant petition also repeats the contested terminologies, the petition filed on 17 July 2006 is hereby expunged and removed from this application.

Accordingly, the petition to expunge the Final Office Actions dated 23 May 2006 and 05 June 2006 is **GRANTED-IN-PART**.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613

Jack B. Harvey, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27927

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OFFICE OF PETITIONS

In re Application of :
Scott Smith et al :
Application No. 10/427,054 : DECISION ON PETITIONS
Filed: April 30, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5003073-042US1 : 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 July 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/ER01/12506, filed October 30, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, German Application No. DE 100 53 858.4, filed October 30, 2000, as set forth in the concurrently filed amendment and application data sheet (ADS), respectively.

The petitions are **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 30, 2003, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii) and in an ADS.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified, pending nonprovisional application was filed on April 30, 2003, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of October 30, 2001, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on July 28, 2003 also identifies the foreign application for which priority is claimed. A certified copy of the foreign patent document is included. 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 PCT 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 365(c) and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Irvin Dingle at (570) 272-3210.

This matter is being referred to Technology Center Art Unit 1713 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications 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 ADS.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of :
Shane Peter Matthews et al :
Application No. 10/427,071 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 063511-9057-00 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance And Fee(S) Due mailed July 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 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 the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

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TC 3600

Michael J. Gratz
Boyle Fredrickson, Newholm, Stein & Gratz, SC
250 East Wisconsin Avenue
Suite 1030
Milwaukee, WI 53202

In re Application of:
David A. Poindexter
Serial No. 10/427,073
Filed: April 30, 2003
For: DUMPING AND TRANSPORTING ACCESSORY HAVING A TELESCOPING LIFT WITH A PIVOT MOUNTED TROLLEY

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed March 8, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes an affidavit from the applicant's doctor, Dr. Andrew J. Waclawik, attesting to the fact that the state of health of David A. Poindexter is such that he might not be available to assist in the prosecution of his patent application if it were to run its normal course.

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 11/16/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 21, 2007

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No./10/427078 patent no.7100948

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: The requested changes are approved. However, by actual line count, the requested changes to Col. 8, are found at lines 30 and 33, respectively.

/Daniel P. Stodola/ 3679

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

Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester NY 14604-2701

In re Application of :
Borazjani et al. :
Application No. 10/427084 :
Filing or 371(c) Date: 04/30/2003 :
Attorney Docket Number: :
P03097 :

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Borazjani et al. :
Application No. 11/977049 :
Filing or 371(c) Date: 06/18/2007 :
Attorney Docket Number: :
P03097C1 :

This is a decision on the Petition Under 37 CFR § 1.182, filed July 17, 2007, to accord application papers filed June 18, 2007 an application number and filing date.

Background

Application papers were filed on June 18, 2007. The application papers were deposited in application 10/427,084. Applicant files the present petition and asserts that the application papers were processed as a Request for Continued Examination ("RCE") in application 10/427,084, rather than as a separate and distinct application filing, and assigned a new application number.

Analysis and conclusion

A review of the file reveals that the application papers filed on June 18, 2007, were a complete application under 37 CFR 1.53(b) such that the application may be accorded a filing date of June 18, 2007.

Accordingly, the petition is **GRANTED**.

No petition fee has been charged and none is due.

The application papers filed in application 10/427,084 on June 18, 2007 have been removed and assigned an application number 11/977,049 and filing date of June 18, 2007. The application has been referred to the Office of Patent Application Processing to complete the formalities review.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OCT 2 5 2004

OFFICE OF PETITIONS

In re Application of :
David Malcolm Camm, et al. :
Application No. 10/427,094 :
Filed: April 30, 2003 :
Attorney Docket No. FETHE24.001DV1 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to the Publication Division.

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. 6

ATTN: CHARLES BERMAN, ESQ.
GREENBERG TRAURIG, LLP
2450 EAST COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of
William E. Clark et al.
Application No. 10/427,112
Filed: May 1, 2003
Atty's Docket No. URQ625/4-004US

DECISION
UNDER 37 CFR 1.28 (c)

This is in response to the paper styled "Notification of Error in Payment of Fees As A Small Entity" filed September 5, 2003, which is treated as a deficiency fee payment filed pursuant to 37 CFR 1.28(c).

37 CFR 1.28© 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."

At the time of filing the petition, the current fee due for a large entity was $750.00. On May 1, 2003, $375.00 was paid. Therefore, a deficiency of **$375.00** is due. Petitioner has submitted authorization to charge counsel's deposit account in the amount of $375.00 for the statutory basic filing fee. Petitioner's deposit account has also been charged for the late filing surcharge in the amount of $130.00 for the oath and declaration and the deficiency in the filing fees. However, petitioner is ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

Small entity status will no longer apply.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
GORDON, et al.	:	
Application No. 10/427,114	:	DECISION GRANTING PETITION
Filed: May 01, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 913137-158	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 08, 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 26, 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 2628 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
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Paper No. 081604

SEP - 8 2004

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, NC 27627

In re Application of:
DONG-GYU KIM
Serial No.: 10/427,139
Filed: May 02, 2003
Attorney Docket No.: **5649-294CXDV2**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 23, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Robert N. Crouse, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: HAE-CHAN PARK
MCGUIRE WOODS LLP
1750 TYSONS BOULEVARD, SUITE 1800
MCLEAN, VA 22102-4215

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090619

DATE : June 25, 2009

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6787766

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:

/ROBERT KIM/
Supervisory Patent Examiner.Art Unit 2881

UNITED STATES PATENT AND TRADEMARK OFFICE

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Peacock, Myers & Adam, P.A.
P.O. Box 26927
Albuquerque, New Mexico 87125-6927

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of
P.K. Stevinson
Application No.10/427,147
Filed: April 29, 2003
Title of Invention: Interactive Educational System

ON PETITION

This is a decision on the petition filed December 28, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request 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.

This above-identified application became abandoned for failure to file a reply to the non-final Office Action of January 21, 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 April 21, 2004. A Notice of Abandonment was mailed on November 4, 2004.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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 if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office 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." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. 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 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). A petition to revive an application as unavoidably abandoned cannot be granted where 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 general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[2] However, " The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account."[3] Nonawareness of the content of, or misunderstanding of PTO statues, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[4] The statue requires a "showing"

---

[2] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

[3] Smith v. Mossinghoff, 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982).

[4] Id., 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the

by petitioner. Therefore, petitioner has the burden of proof.

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.[5]

Application of the unavoidable standard to the present facts

In the present case, petitioner argues continued prosecution in the above-identified application was unavoidably delayed due to the mental impairment and dishonesty of the previous attorney of record Glenn Webb. Petitioner contends attorney Webb lied to his co-workers about the status of the above-identified application leading them to believe that he acted on the application. Petitioner further contends upon termination from the law firm Attorney Webb left the application file incomplete and disorganized condition.

The showing of record has been considered, but is not persuasive. The U.S. Patent and Trademark 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.[6] 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 or 37 CFR 1.137(a).[7]

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proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[6] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[7] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[8]

An adequate showing of unavoidable delay must include a showing from Attorney Webb as to why action was not taken to prevent the application from becoming abandoned while the application was under Webb's control. Petitioner should send a letter (accompanied by a copy of this decision) to Webb by registered or certified mail, return receipt requested, indicating to Webb that the USPTO is requesting his assistance in determining the circumstances surrounding the abandonment of this application, and is specifically requesting Webb to provide a statement determining the circumstances surrounding the abandonment of this application, and is specifically requesting Webb to provide a statement as to: (1) why a reply to the non-final Office Action and any required extensions of time were not filed. (Such statements should be accompanied by copies of any documents (*e.g.* correspondence between petitioner and counsel) relevant to the outstanding Office action. In the event that Webb fails to provide a statement within a period (*e.g.*, within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to Webb with any renewed petition under 37 CFR 1.137(a).

In addition to the above, to the extent petitioner seeks to contend that Webb suffered a mental breakdown was suffering from substance abuse or committed fraud such statements are merely allegations which have not been substantiated with any evidence.

In sum, petitioner has failed to provide sufficient evidence, to establish a finding of unavoidable delay.

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[8] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 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 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 (effective 7/15/05)
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries 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
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Glenn Webb
P.O. Box 951
Conifer, CO 80433

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
P.K. Stevinson
Application No.10/427,147
Filed: April 29, 2003
Title of Invention: Interactive Educational System

ON PETITION

This is in response to the "Statement in Support of Unintentional Delay", filed April 26, 2005, to revive the above-identified application.

Pursuant to 37 CFR 1.33:
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.

A review of the file shows that the power of attorney has been revoked. Revocation of the power of attorney becomes effective on the date that the revocation is RECEIVED in the Office (not on the date of ACCEPTANCE). As such power of attorney was revoked on December 28, 2004.

Therefore the communication received on April 26, 2005 will not be acted upon. The Office will not engage in further correspondence with Attorney Webb with regard to this application.

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

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P O BOX 26927
ALBUQUERQUE NM 87125-6927

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
P.K. Stevinson :
Application No.10/427,147 : ON PETITION
Filed: April 29, 2003 :
Title of Invention: Interactive Educational System :

This is a decision on the petition under 37 CFR §1.137(b) filed September 2, 2005 to revive the above-identified application.

This above-identified application became abandoned for failure to file a reply to the non-final Office Action of January 21, 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 April 21, 2004. A Notice of Abandonment was mailed on November 4, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to Technology Center 3700 for further processing of the Amendment submitted with the instant petition.

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
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MARK ALAN WINTER
3501 ESPLANADE
GRAND CANAL
MARINA DEL REY, CA 90292

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Stevinson	:	
Application No. 10/427,147	:	DECISION ON PETITION
Filed: April 29, 2003	:	TO WITHDRAW
Attorney Docket No. 32016PKPAL	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Ian Richard Walsworth has been revoked by the applicant of the patent application on May 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: IAN RICHARD WALSWORTH
2300 15TH STREET
SUITE 320
DENVER CO 80202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-4-05

TO SPE OF : ART UNIT 2685

SUBJECT : Request for Certificate of Correction on Patent No.: 6882849

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.

Check spec. / figs.

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:

/Edward Urban/
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 09 2005

Director's Office
GROUP 3700

Honeywell International Inc.
101 Columbia Road
P. O. Box 2245
Morristown, NJ 07962-2245

In re application of
Bunn et al.

Serial Number: 10/427176
Filed: April 30, 2003

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **CABIN PRESSURE OUTFLOW CONTROL VALVE HAVING NONLINEAR FLOW CONTROL CHARACTERISTICS**

The above-identified application is withdrawn from issue after payment of the issue fee to correct informality of filed oath.

The above-identified applicant 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 applicant.

Telephone inquiries should be directed to Gene Mancene at (571) 272-4930.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch, Director
Technology Center 3700
(571) 272-3750

rt/ 3/9/05

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

MAY 21 2004

Alan E. Wagner
Whyte Hirschboeck Dudek S.C.
555 east Wells Street, Suite 1900
Milwaukee, WI 53202

In re Application of
John E. Tadych :
Serial No.: 10/427,179 : DECISION ON PETITION
Attorney Docket No.: ABR-31772(1)

This is in response to "Petition to make Special Under 37 CFR 1.102(c)" filed April 19 2004.

Applicant's statement and evidence have been reviewed. Requirements under MPEP 708.02 IV have been met. Accordingly, petition is granted. Prosecution will proceed according to procedure set forth under MPEP 708.02. There is no provision for withdrawal from this special status.

Petition is granted.

Cecilia Tsang
Special Program Examiner, TC1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Minnie Ho, et. al. :
Application No. 10/427,187 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 42P15380 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 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.

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of July 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on October 13, 2007 does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further, Petitioner should note that the Examiner has responded to the Amendment after Final with an Advisory Action Form (copy enclosed).

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 37CFR 1.34(a), the signature of John F. Kacvinsky 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 in whose behalf he 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 will be mailed to the address on the petition.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

Brian W. Brown
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action Form

cc: John F. Kacvinsky
PO Box 52050
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

JOHN F. KACVINSKY
C/O INTELLEVATE
P. O. BOX 5250
MINNEAPOLIS, MN 55402

MAILED

SEP 24 2009

OFFICE OF PETITIONS

In re Application of :
Minnie HO et al. :
Application No. 10/427,187 : ON PETITION
Filed: April 30, 2003 :
Attorney Docket No. 1020P15380 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 13, 2009, 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 12, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and a Request for Continued Examination; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April13, 2009 is accepted as having been unintentionally delayed.

The power of attorney filed February 8, 2008 is accepted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3761 for appropriate action on the concurrently filed amendment.

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

Paper No. 5

Richard C. Gilmore
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

COPY MAILED

OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Stanford
Application No. 10/427,193
Filed: April 30, 2003
Attorney Docket No. 15499.8.3.3.1
For: PORTABLE FOLDING UTILITY TABLE WITH FRAME CONNECTED TO INTEGRAL LIP

DECISION GRANTING PETITION

This is a decision on the petition, filed September 11, 2003, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed July 14, 2003.

The application was filed on April 30, 2003. On July 14, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that figure 5 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that figure 5 be accorded a filing date of April 30, 2003 on the basis that it was received in the Patent and Trademark Office (PTO) on April 30, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated bar code citing April 30, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 pages of drawings. A review of the application file reveals that there are 4 pages present, depicting figures 1-4.

The return postcard constitutes *prima facie* evidence that 5 pages of drawings, including figure 5, were filed on April 30, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

No petition fee has been or will be charged in connection with this petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of April 30, 2003, using the copy of figure 5 supplied with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sep. 19, 2005

TO SPE OF : ART UNIT 4700 (*Mark Polutta*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,895,872

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the IFW code cocin – re: Item (63) - continuing data.

sp

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390-x120

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Jose V. Chen
Primary Examiner

SPE **Art Unit** 3637

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

COPY MAILED
OCT 17 2006
OFFICE OF PETITIONS

In re Application of :
Kiron M. Das :
Application No. 10/427,196 : DECISION ON PETITION
Filed: 1 May, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 54704.8013.US01 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 23 May, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The rule at 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.

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 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 1644 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Lead Paralegal
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
10/427,196	05/01/2003	1644	465	54704.8013.US01	4	30	3

CONFIRMATION NO. 8762

26259
LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

CORRECTED FILING RECEIPT

OC000000020683074

Date Mailed: 10/03/2006

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)

Kiron M. Das, Basking Ridge, NJ;

Assignment For Published Patent Application

University of Medicine & Dentistry of New Jersey

Power of Attorney: The patent practitioners associated with Customer Number **26259**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/046,049 03/23/1998 PAT 6,605,276
which is a CIP of 08/630,541 04/10/1996 PAT 5,869,048
which is a CIP of 08/437,474 05/09/1995 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/427,196

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Treatment of ulcerative colitis with tropomyosin isoforms and monoclonal antibodies to tropomyosin isoforms

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

COPY MAILED

MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Gary D. Glick et al	:	
Application No. 10/427,211	:	DECISION GRANTING PETITION
Filed: May 1, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. UM-07884	:	

This is a decision on the petition, filed March 2, 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 30, 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 1618 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\Mar10\427211.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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HONEYWELL INTERNATIONAL, INC
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962-2245

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Lucious Taylor :
Application No. 10/427,214 : ON PETITION
Filed: May 1, 2003 :
For: RADIO NAVIGATION SYSTEM :

This is a decision in response to the Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed December 7, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Advisory Action, mailed May 31, 2005.

A final Office action was mailed March 10, 2005. The final Office action set a three (3) month period for reply. Applicant filed a reply to the final Office action on May 10, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory action, mailed May 31, 2005. The advisory action set the reply period at either 1 month from the mailing of the Advisory action, or the date set forth in the final Office action, whichever was later.

As such, the application became abandoned for failing to timely and properly reply to the Advisory action, on July 1, 2005[1].

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of the May 10, 2005 reply to the final Office action.

This application is being returned to Technology Center 3661 for processing of the RCE and reply in due course.

[1] Had Applicant sought an extension of time to reply to the final Office action, Applicant would have had until September 10, 2005 to reply thereto.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6908415
Issue Date: June 21,2005
Application No. 10427244
Filed: May 1,2003
Attorney Docket No. 3970P2616

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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)
6908415	2005-06-21	10427244	2003-05-01	3970P2616

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	/Craig Weiss/	Date (YYYY-MM-DD)	2009-09-16
Name	Craig Weiss	Registration Number	48274

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. 090204

JAN 2 5 2005

MARCIA A. DEVON
ATTORNEY AT LAW
400 OCECNGATE, SUITE 800
LONG BEACH, CA 90802

In re Application of:
BRIAN K. BETTIS
Serial No.: 10/427,268
Filed: May 01, 2003
Attorney Docket No.: **BETTIS 2**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 26, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Marcia A. Devon, on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Brian Bettis, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1607.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: BRAIN BETTIS
1697 PACIFIC AVE.
VENICE, CA 90291

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Paper 4

DANIEL S. JONES
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-4108

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of
Charles E. Williams
Application No. 10/427,269
Filed: May 1, 2003
Attorney Docket No. 046050-9073-01

DECISION GRANTING PETITION

This is a decision on the petition filed July 28, 2003 under 37 CFR 1.53, in response to the "Notice of Omitted Items" mailed June 25, 2003.

The instant application was filed May 1, 2003 and a filing date was accorded. However, according to the Notice of Omitted Items, the application papers submitted did not include page 1 of the specification.

Petitioner asserts that page 1 was among the papers filed on May 1, 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 21 and bears a United States Patent and Trademark Office date-stamp of May 1, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **Granted.**

Given the basis for granting the petition, no petition fee is due and none has been charged to petitioner's deposit account.

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 May 1, 2003 and page 1 of the specification submitted July 28, 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

OIPE
JUL 2 8 2003
PATENT & TRADEMARK OFFICE

360 Degree Hinge and Door Closure Apparatus

BACKGROUND

The invention generally relates to door hinging and closing mechanisms. In particular the invention relates to a door closure assembly and a 360 degree hinge assembly. The present application claims priority to co-pending provisional patent application No. 60/389,010, filed on June 14, 2002.

SUMMARY

Other features and advantages of the invention will become apparent to those skilled in the art upon review of the following detailed description, claims, and drawings.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 illustrates an exemplary side view of an operable wall including a 360 degree hinge and door closure assembly embodying the invention.

FIG. 2 illustrates an exemplary perspective view of the 360 degree hinge assembly.

FIG. 3 illustrates an exemplary exploded view of the 360 degree hinge assembly.

FIG. 4 illustrates an exemplary end view of the top rail.

FIG. 5 illustrates an exemplary exploded view of the door closure assembly.

FIG. 6 illustrates an exemplary perspective view of the door closure assembly in a neutral condition.

FIG. 7 illustrates an exemplary perspective view of the door closure assembly in another operable condition.

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RUDOLF O. SIEGESMUND
SUITE 2000
4627 N. CENTRAL EXPRESSWAY
DALLAS TX 75205-4017

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MAY 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Yen-Fu CHEN et al. :
Application No. 10/427,279 : DECISION ON PETITION
Filed: May 02, 2003 :
Attorney Docket No. **AUS920030330US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 06, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 07, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2174 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
Petition Examiners
Office of Petitions

cc: **RUDOLF O. SIEGESMUND**
GORDON & REES LLP
SUITE 2800
2100 ROSS AVENUE DALLAS, TX 75201

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Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of
Alfred Frank Baldwin et al.
Application No. 10/427,282
Filed: May 1, 2003
Attorney Docket No. 9305-9

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed July 11, 2003 to correct the filing date to May 1, 2003, rather than the presently accorded filing date of May 2, 2003.

Petitioner alleges that the application was deposited in Express Mail service on May 1, 2003. In support, on July 11, 2003, petitioner supplied a copy of Express Mail Label No. EV193586760US (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 blank but the USPS post mark is May 1, 2003. Additionally, petitioners have provided a copy of the United States Postal Service's tracking system that shows Express Mail label No. EV193586760US was mailed May 1, 2003.

In view of the above, the petition is granted and since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to May 1, 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

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ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE, CA 95126

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NOV 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Bill Loh	:	
Application No. 10/427,288	:	ON PETITION
Filed: April 30, 2003	:	
Attorney Docket No. RSBLO8	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The 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

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Paper No. 6

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JAN 2 1 2004

OFFICE OF PETITIONS

HARRINGTON & SMITH LLP
4 RESEARCH DRIVE
SHELTON CT 06484-6212

In re Application of :
Anton Bush, Henry Haverinen, Jyri :
Rinnemaa, Mike Smith, Timo :
Takamaki, Jukka Tuomi, Hannu : DECISION ACCORDING STATUS
Tuominen : UNDER 37 CFR 1.47(a)
Application No. 10/427,307 :
Filed: May 1, 2003
Attorney Docket No.
881A.0010.U1(US)

This is in response to the petition under 37 CFR 1.47(a), filed December 29, 2003.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on May 1, 2003, without a fully executed oath or declaration and the statutory basic filing fee. Accordingly, on June 25, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, these missing items and fees, together with a surcharge for their late filing. This Notice set a two month extendable period for reply.

In reply, applicant filed the instant petition under 37 CFR 1.47(a), together with the statutory basic filing fee and surcharge. The petition was made timely by obtaining a four month extension of time and including a Certificate of Mailing dated December 23, 2003. Accompanying the petition was a declaration executed by joint inventors Henry Haverinen, Jyri Rinnemaa, Mike Smith, Timo Takamaki, Jukka Tuomi, and Hannu Tuominen, but with the signature block for joint inventor Anton Bush left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has detailed the efforts taken to locate nonsigning inventor Bush. In particular, applicant has included copies of e-mail correspondence documenting Bush's failure to notify the Assignee of any changes to his address upon leaving the employ of the Assignee. In addition, Rule 47 applicant has included a copy of a DHL shipping label addressed to the last known address of Bush, together with an e-mail from DHL stating that Bush could not be located at that address.

On petition, Rule 47 applicant has submitted a declaration in compliance with 37 CFR 1.63 and satisfied the requirements of 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 10, 2008

TO SPE OF : ART UNIT 2141
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/427310 /7383356

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

HUTAL DHARIA
SUPERVISORY PATENT EXAMINER

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LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY MO 64108

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Teresa Lane :
Application No. 10/427,315 : ON PETITION
Filed: May 1, 2003 :
Attorney Docket No. 440832 :

This is a decision on the petition filed August 2, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned May 23, 2006 for failure to timely pay the issue fee on or before May 22, 2006. Accordingly, a Notice of Abandonment was mailed July 13, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/427,315	05/01/2003	Teresa Lane	61992/8

CONFIRMATION NO. 7262

OC000000021982992

OC000000021982992

30954
LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY, MO 64108

Date Mailed: 01/12/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/02/2006.

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.

Patricia Faison-Ball

PATRICIA F FAISON BALL
OP (571) 272-3212

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Waleed Ojeil	: DECISION ON REQUEST FOR
Patent Number	: 7577675	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/427,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **688** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DRW Sep-06

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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SEP 08 2006

OFFICE OF PETITIONS

In re Application of :
Paesang et al. :
Application No. 10/427,332 : DECISION ON PETITION
Filed: 1 May, 2003 :
Attorney Docket No. 20341-72427 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE," filed 14 October, 2004.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

On 26 May, 2004, the Office mailed a Notice of Allowance and Fee(s) Due and Notice of Allowability, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 27 August, 2004. Notice of Abandonment was mailed on 29 September, 2004.

In the petition, applicants asserted that the practitioner never received the Notices mailed on 26 May, 2004.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by registered practitioner Richard B. Lazarus attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of petitioner's docket record is supplied with the petition.

A review of the record indicates that the USPTO mailed the Notices to the correct correspondence address; however, they were inexplicably returned to the USPTO on 9 June, 2004. For this reason, the practitioner did not receive the Notices mailed on 26 May, 2004.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 3700 technical support staff for remailing of the Notice of Allowance and Fee(s) Due and Notice of Allowability mailed on 26 May, 2004. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of
James Douglass
Serial No.: 10/427,342
Filed: April 30, 2003
For: **COLOR IMAGE COMPRESSION VIA SPECTRAL DECORRELATION AND ELIMINATION OF SPATIAL REDUNDANCY**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed November 12, 2004, requesting acceptance of color drawings.

A review of the file record reveals that applicant has, on three different occasions, provided different sets of color drawings. The first set was filed with the filing of the application, April 30, 2003. The second set was filed August 11, 2003. A third set was filed simultaneously with the subject petition, i.e., November 12, 2004.

Applicant's first submission of color drawings do not present figures 2A through 2C against a color base, however, the first submission did present figures 3A through 3C, 4A through 4C and figures 6A through 6C, partially presented in color. It is assumed that since the second and third submissions do not present those same figures in color, that the later submission superseded the first submission.

Figures 2A through 2C were not presented against a color base in the second submission filed August 11, 2003. The remainder of the figures mentioned above with respect to the submission filed with the subject petition, were submitted in color.

The third set of drawings (i.e., submitted with the subject petition) are considered as applicant's desired set of color drawings, superseding the previously submitted sets of color drawings.

The subject petition requests, on page 1, that the color drawings identified in figures 1, 5A-5D, and 7A-7D be accepted in lieu of black and white drawings. However, the petition goes on to refer to figures 11A through 11F. In addition, figures 2A through 2C were presented against a color base. Therefore, it is presumed that figures 1, 2A through 2C, 5A through 5D, 7A through 7D and 11A through 11F, be accepted in lieu of black and white drawings.

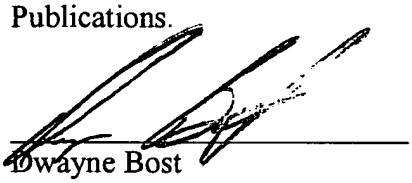
A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The amendment which accompanied the subject petition was titled "Proposed Amendment To Accompany Petition To Accept Colored Drawing". Given that the amendment was signed, the amendment will be treated as a formal submission and not as a proposed amendment.

Accordingly, Petition has satisfied the requirements of 37 C.F.R. §1.84(a)(2). The petition is **GRANTED**.

The application file will be forwarded to TC2600's Technical Support Staff for entry of the amendment to the specification. From there, the application will be forwarded to the Office of Publications.



Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

MAY 0 2 2006

TECHNOLOGY CENTER 3600

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

In re Patent No. BODINE ET AL.
Issue Date: 01/24/06
Appl. No.: 10/427,368
Filed: May 01, 2003
For: SUBSEA CHOKE CONTROL SYSTEM

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed June 10, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item (3)- a proper statement under 37 CFR 3.73(b) establishing ownership.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Patent Examining Group 3600

DJB: 5/2/06

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 23, 2006 **Paper No.:** _____

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/427,368 Patent No.: 6988554

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**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The petition filed 6/10/04 under 1.48, treated under 1.324 has been dismissed. Therefore the requested changes should be denied entry

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
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JUN 21 2006

TECHNOLOGY CENTER 3600

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON, TX 77253-3267

In re Patent No. 6,988,554
Issue Date: January 24, 2006
Appl No.: 10/427,368
Filed: May 01, 2003
For: SUBSEA CHOKE CONTROL SYSTEM

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed May 19, 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.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
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

DATE: June 21, 2006
TO: Certificates of Correction Branch
FROM: David J. Bagnell
SPE, Art Unit 3672
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,988,554 as specified on the attached Certificate.

David J. Bagnell, SPE
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,988,554
Patented: January 24, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

John Eric Bodine	Houston, TX
David Anthony James	Houston, TX
Declan Elliott	Lambagh, (IE)
Edmund McHugh	Longford Town (IE)

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Paper No. 6

Akerman Senterfitt
P. O. Box 3188
West Palm Beach, FL 33402-3188

COPY MAILED

FEB 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Leonard E. MacNeil, et al. :
Application No. 10/427,372 : ON PETITION
Filed: March 1, 2003 :
Attorney Docket No. 789-63 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed January 2, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

The late oath or declaration surcharge of $130 has been paid and replacement drawings have been received as required by the Notice to File Missing Parts dated June 30, 2003.

Petitioner alleges that the non-signing inventor, Mr. Leonard MacNeil, will not sign the declaration. While it is evident that Mr. MacNeil will not sign the declaration, it is uncertain if he was presented with a copy of the application papers (specification, including claims, drawings and oath or declaration). A copy of the letter from Akerman Senterfitt to Ms. Denise E. McCabe

at Fulton & Company, dated December 16, 2003 states that the application papers were being sent to Ms. McCabe, but there is no indication whether those papers were provided to Mr. MacNeil. The copy of the letter from Denharco to Mr. MacNeil, dated June 2, 2003, states, "You will find enclosed a US 'Combined declaration for patent application and power of attorney' for you to sign, date and return..." Furthermore, by petitioner's own admission in the instant petition, it is stated that, "The assignee sent Mr. MacNeil a copy of the inventor declaration to sign on June 2, 2003, by registered mail." Therefore, it is reasonable to conclude that Mr. MacNeil did not receive a copy of the application papers. MPEP 409.03(d) in pertinent part states:

> "A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers...It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)."

In view of the above, petitioner must supply a copy of the application papers to Mr. MacNeil as required. Upon the filing of a Request for Reconsideration, petitioner must demonstrate that a *bona fide* attempt was made to present the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. If there is an express written refusal to sign the declaration, a copy of the document evidencing that refusal should be submitted to the USPTO. If the non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration and any documentary evidence to support facts alleged in the affidavit or declaration should be submitted with the reconsideration request.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

Akerman Senterfitt
P. O. Box 3188
West Palm Beach, FL 33402-3188

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of :
Leonard E. MacNeil, et al. :
Application No. 10/427,372 : ON PETITION
Filed: March 1, 2003 :
Attorney Docket No. 789-63 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed May 6, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Mr. Leonard Macneil
128 Fairview Avenue
Kamloops, British Columbia
Canada V2B 1E6

COPY MAILED
MAY 13 2004
OFFICE OF PETITIONS

In re Application of
Leonard E. MacNeil; Stephane Pigeon; and Daniel Landry
Application No. 10/427,372
Filed: May 1, 2003
For: METHOD AND SYSTEM FOR OPTIMIZING LOG HARVESTING

Dear Mr. MacNeil:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

COPY MAILED

DEC 28 2004

OFFICE OF PETITIONS

In re Application of :
Klavs F. Jensen et al :
Application No. 10/427,373 : NOTICE
Filed: May 1, 2003 :
Attorney Docket No. 0492611-0491-MIT-9726 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1744.

Wan Laymon
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)
6,989,659	2006-01-24	10/427,384	2003-05-02	

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	/Jae Won Song/	Date (YYYY-MM-DD)	2010-04-06
Name	Jae Won Song	Registration Number	59070

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. 6989659
Issue Date: January 24,2006
Application No. 10427384
Filed: May 2,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 6,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2010 . 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
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Alexandria, VA 22313-1450
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RUDOLF O. SIEGESMND
2100 ROSS AVENUE/SUITE 2650
DALLAS TX 75201

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FEB 19 2008

In re Application of :
Hamilton, et al. :
Application No. 10/427,406 : DECISION
Filed: 30 April, 2003 :
Attorney Docket No. AUS920030196US1 :

This is a decision on the petition filed on 11 April, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

Petitioner's 29 May, 2007, Notice of Change of Address is acknowledged and has been entered.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 13 September, 2006, with reply due absent extension of time on or before 13 December, 2006;
- the application went abandoned by operation of law after midnight 13 December, 2006;
- the Office mailed the Notice of Abandonment 5 April, 2007;

- return mailings in the file and Petitioner's 29 May, 2007, Notice of Change of Address suggest that Petitioner changed address before Noticing the Office of the change.

- on 11 April, 2007, Petitioner submitted the instant 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 should note 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. 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.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

And the Petitioner must be diligent in attending to the matter.[4] 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.[5]))

---

[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] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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: 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.

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under 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 2186 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 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/Art Unit 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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[5] 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.

[6] 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

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AUG 0 4 2009

OFFICE OF PETITIONS

In re Application of Foreman :
Application No. 10/427,407 : Decision on Petition
Filing Date: May 2, 2003 :
For: Ladder Workstation and :
Attachment Bracket :

This is a decision on the petition filed April 23, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

A final Office action was mailed February 23, 2005.

A reply was timely filed April 22, 2005, and the reply is in the Office's Electronic Image File Wrapper for the application.

The Office mailed a Notice of Abandonment on January 10, 2006. The Notice stated the application was abandoned because a reply was never filed in response to the February 23, 2005 Office action.

A review of the record indicates the Notice of Abandonment failed to correctly identify the reason the application is abandoned. The Notice should have stated the application is abandoned because applicant failed to file a *proper* reply in response to the final Office action.

Petitioner has not submitted a proper reply to the final Office action mailed February 23, 2005. A proper reply to a final rejection consists only of:

(1) An amendment which *prima facie* places the case in condition for allowance,
(2) A Notice of Appeal,
(3) A Request for Continued Examination (RCE), or
(4) A continuation application.

As of this date, none of the above acceptable forms of reply have been filed.

Although an amendment was filed April 22, 2005, the amendment was not a proper reply.

Applicant does not have a "right" to amend any finally rejected claims, add new claims after a final rejection, or reinstate previously canceled claims. However, the Office will normally consider an amendment a proper reply to an Office action if it *prima facie* ("on its face") places the application in condition for allowance. In other words, the amendment must merely cancel claims which have been rejected, adopt examiner suggestions, or in some other way require only a cursory/brief review by the examiner. If an amendment requires further searching by an examiner, it will generally not be accepted. An example of an acceptable amendment:

a. Examiner files final rejection which states, "Claim #2 is rejected, however if the word 'plural' were deleted then the claim would be acceptable."
b. An amendment is filed which deletes the word "plural"
c. The amendment on its face is allowable and no further work by the examiner is required.

The Office has determined the proposed amendment filed April 22, 2005, raises new issues requiring further search or consideration. Since the amendment does not *prima facie* place the application in condition for allowance, it was an improper reply to the final Office action.

A copy of an Advisory Action noting deficiencies in the April 22, 2005 amendment is attached.

Even if the reply filed April 22, 2005, was a proper reply, the instant petition would not be granted. The instant petition is a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment. 37 CFR 1.181(f) states, "Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided." The instant petition was not filed until more than 39 months after the Office mailed the Notice of Abandonment. Petitioner has failed to provide any explanation for the 39 months of delay. Therefore, the petition is dismissed as untimely.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($810 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The required reply filed with the petition under 37 CFR 1.137(b) should be in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application. The Office notes the fee for a RCE is $405. A form which may be used for purposes of filing a RCE is enclosed. A PDF "fillable" version of the RCE form can be found at: "http://www.uspto.gov/web/forms/sb0030.pdf".

A copy of a petition under 37 CFR 1.137(b) form is enclosed. A PDF "fillable" version of the form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration or petition under 37 CFR 1.137 should be submitted within TWO (2) MONTHS from the mail date of this decision. If a request for reconsideration is filed, the request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Unofficial Advisory Action
Form for RCE (PTO/SB/30)
Form for Petition Under 37 CFR 1.137(b) (PTO/SB/64)
Privacy Act Notice

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/427,407	Applicant(s) FOREMAN, ALEXANDER JOSEPH	
	Examiner J. ALLEN SHRIVER II	Art Unit 3632	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   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: _____.

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner
Art Unit: 3632

Continuation of 3. NOTE: The Final rejection dated 2/23/2005 indicated that claims 12 and 13 would be allowable if rewritten to overcome the the 112 2nd paragraph rejections and to include all of the limitations of the base claim and any intervening claims. New proposed claim 16 fails to include all limitations from claims 1, 4 and 12 as required by the Final rejection. Additionally, Applicant has added the limitation "a plurality of elongated legs of equal length". This limitation was not previously set forth in the claims, therefore this limitation raises new issues that would require further search and consideration to determine patentabilty.

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El Segundo, CA 90245

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OFFICE OF PETITIONS

In re Application of	:	
Wellman et al.	:	
Application No. 10/427,408	:	ON PETITION
Filed: April 30, 2003	:	
Attorney Docket No. 02W174	:	
	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 28, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, July 27, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on October 27, 2005.

The petition includes the required reply in the form of payment of the Issue Fee and the Publication Fee[2]; the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[2] There was no distinct but concurrent requirement for new drawings.

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AUG 25 2004

In re Application of	:	
Dirk Holfter	:	
Serial Number : 10/427,421	:	WITHDRAWAL
Filed : May 01, 2003	:	FROM
For : PROCESS FOR THE HIGH-SPEED	:	ISSUE
ROTARY APPLICATION OF LIQUID,	:	
PIGMENTED COATED AGENTS	:	

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.

Mary C. Lee, Director
Technology Center 1700
Chemical and Materials Engineering

E I DUPOND DE NEMOURS and COMPANY
LEGAL PATENT RECORDS CENTER
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

cc:Allowed Files, Pk3-910